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Senate & House

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SENATE AND HOUSE DOCUMENTS

PRINTED FOR THE

GENERAL ASSEMBLY OF N. CAROLINA

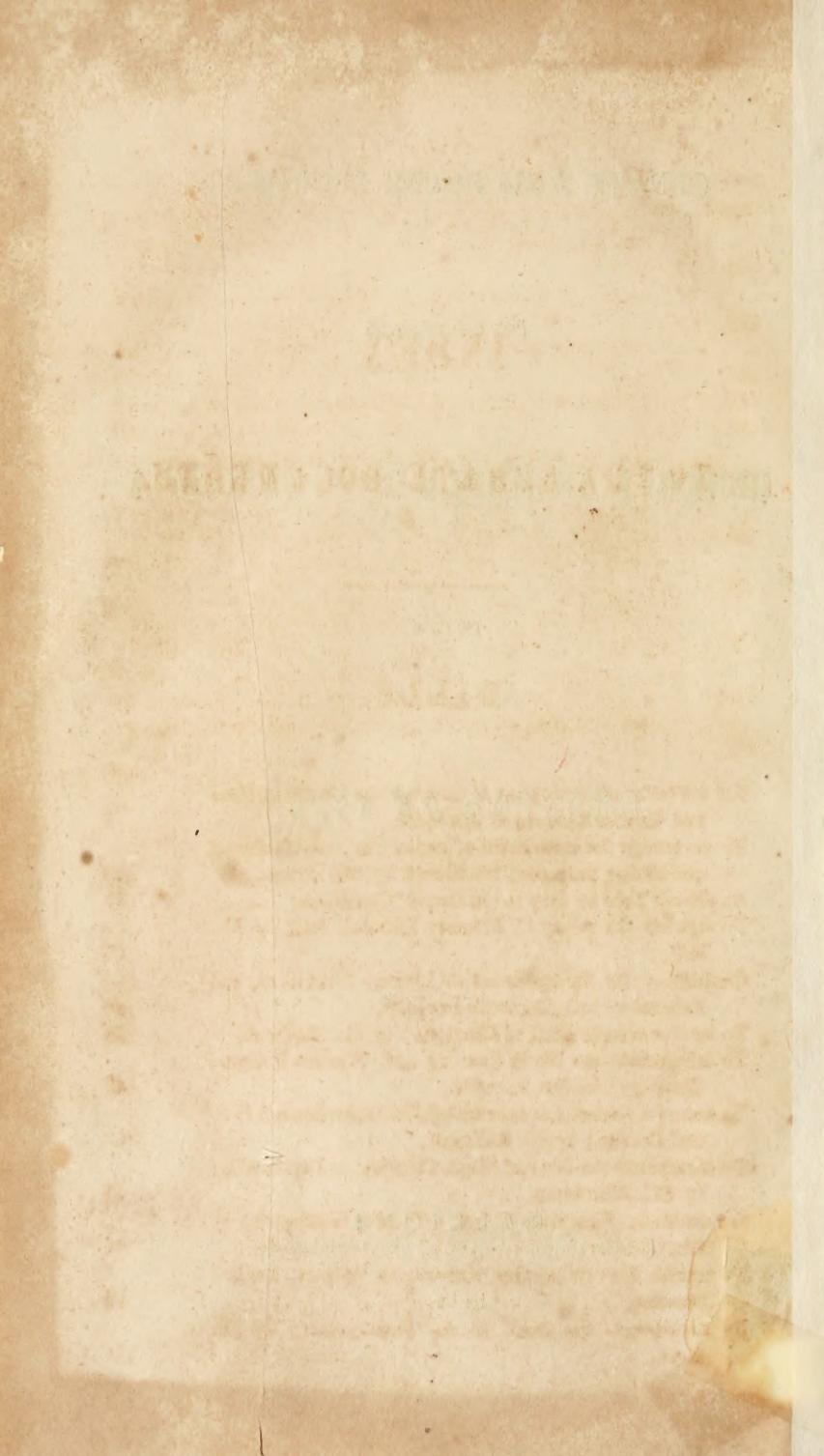
AT THE

SESSION OF 1852.

RALEIGH:

SEATON GAMES, PRINTER TO THE LEGISLATURE

1852. 7



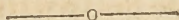
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Bower,	Albertson,
Bunting,	D. Reid,
Woodfin,	Erwin,
Brogden,	McIntyre,
Willey.	Scales.

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<i>Senate.</i>	<i>Commons.</i>
Messrs. Boyd,	Messrs. Waugh,
Palmer.	Whitehurst.

[Read first time, ordered to be printed, and referred to Committee on Judiciary.]

A BILL

For the better administration of Justice in the Courts of Pleas and Quarter Sessions of this State.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be the duty of the Justices of the Peace of the several Courts of Pleas and Quarter Sessions in this State, in case a majority of said Justices of the Peace in each County shall deem the same expedient and necessary, at the first term that shall be holden in their respective Counties, after the
of next, to elect some person of ability, integrity and learning in the law, Judge of the Court of Pleas and Quarter Sessions of said County, who shall hold his office for the term of ten years, if he shall be of good behavior during that time.

II. *Be it further enacted,* That no person shall be elected a Judge of the Court of Pleas and Quarter Sessions of this State, unless a majority of the acting Justices of the Peace of the County Court, for which said election is held, be present, and the person so voted for as Judge receives a majority of the votes of the said Justices present.

III *Be it further enacted*, That upon the election of
 2 any person as Judge aforesaid, it shall be the duty of the
 3 Clerk of the Court of Pleas and Quarter Sessions,
 4 whereof such person is elected Judge, to certify the
 5 same to the Governor of this State, under the seal of
 6 his Court; and thereupon the Governor shall cause a
 7 commission of such appointment to issue to the person
 8 so elected Judge, as in cases of Judges of the Superior
 9 Courts of this State.

IV. *Be it further enacted*, That the said Judges, before
 2 they act as such, shall, in open Court, or before one of
 3 the Judges of the Supreme or Superior Courts, or be-
 4 fore some Justice of the Peace, take the oath appointed
 5 for the qualification of public officers; and also an oath
 6 of office: and it shall be the duty of the officers or Court,
 7 before whom such Judge or Judges shall qualify, to cause
 8 such Judge or Judges to subscribe the oaths by him or
 9 them taken, and, having certified the same, shall cause
 10 said oath to be filed among the records of the Superior
 11 Court of the County in which the said Judge is elected,
 12 with the Clerk of said Court, who shall carefully preserve
 13 the same; And, if any Judge shall act in his said office
 14 before he shall have taken the oaths hereby directed, he
 15 shall forfeit and pay five hundred dollars, one-half to the
 16 use of the State, and the other half to the person who
 17 shall sue for the same.

V. *Be it further enacted*, That, upon the qualification
 2 of the said Judge or Judges, as aforesaid, it shall be the
 3 duty of the Clerks of the several Courts of Pleas and
 4 Quarter Sessions for which they are appointed, to fur-
 5 nish the said Judges with an accurate list of the Justi-
 6 ces of the Peace of their respective Counties; and the
 7 said Judges shall classify and arrange the said Justices
 8 of the Peace, and appoint two of said Justices of the
 9 Peace, who, together with the said Judge, shall sit and

10 be competent to hold the terms of said Court, as herein-
 11 after declared : And the Clerks of said Courts shall no-
 12 tify the Justices of the Peace, so appointed, of their said
 13 appointment, at least twenty days before the term for
 14 which they are appointed to hold said Court, under the
 15 penalty of two hundred dollars, to be recovered by ac-
 16 tion of debt in any of the Courts, one-half to the use of
 17 the State, and the other half to the person who shall
 18 sue for the same.

VI. *Be it further enacted*, That the said Judges and two
 2 Justices of the Peace, shall be competent to hold the
 3 terms of said Courts for which they are appointed, and
 4 have all the powers incident to such a jurisdiction, and
 5 shall and may take cognizance, and have full power and
 6 authority and jurisdiction to hear, try and determine
 7 all causes of a civil nature whatever, at common law,
 8 within their respective Counties, where the original ju-
 9 risdiction is not, by any Act of the General Assembly,
 10 confined to a single magistrate, or to the Supreme or
 11 Superior Courts ; of all penalties incurred by violation
 12 of the penal statutes of the State, or the laws passed by
 13 the Congress of the United States, whereby such law
 14 jurisdiction is given to the Courts of the several States ;
 15 of suits for dower, partition, filial portions, legacies, and
 16 distributive shares of intestates' estates ; and all other
 17 matters relating thereto ; to try, hear and determine
 18 all matters and things relating to orphans, idiots and lu-
 19 natics, and the management of their estates, in like man-
 20 ner as Courts of Chancery exercise jurisdiction ; to have
 21 original and exclusive jurisdiction to try, hear and deter-
 22 mine all petit larcenies, assaults and batteries, all tres-
 23 passes and breaches of the peace, and other misdemean-
 24 ors, of what kind soever, of an inferior nature ; and of
 25 all other criminal cases where the judgment upon con-
 26 viction shall not extend to life, limb or member ; and in
 27 all other cases where jurisdiction and power is given by

28 any Act of the General Assembly to the Courts of Pleas
29 and Quarter Sessions of this State.

VII. *Be it further enacted*, That the said Judges shall
2 have the same power, authority and jurisdiction to hear,
3 try and determine all causes and matters of a criminal
4 nature, and all violations of the criminal law, and to com-
5 mit, bind over, bail, or otherwise dispose of all offences
6 against the criminal laws of this State, as is conferred
7 upon one or more Justices of the Peace, or possessed
8 and enjoyed by them under the laws of this State:
9 *Provided always*, that the said Judges shall have no
10 power, authority or jurisdiction to try, hear or deter-
11 mine any cause or matter of a civil nature out of Court.

VIII. *Be it further enacted*, That the said Judges shall
2 have the same power and authority as is now by law
3 conferred upon the Judges of the Superior Courts, to
4 take the acknowledgment or probate of any deed, bill of
5 sale, or any other instrument which may be, or is exe-
6 cuted in this State, and which by the laws of this State
7 is required to be registered; and also the private exam-
8 ination of any *feme covert* who may be a party to any
9 such deed, bill of sale, or other instrument requiring re-
10 gistration, in the same way as is now prescribed by law;
11 and any deed, bill of sale or other instrument, so ac-
12 knowledged, or proven and certified, shall be registered,
13 and the same, so registered, shall have the same effect
14 as though all the said proceedings had been had before,
15 and done by a Judge of the Superior Courts.

IX. *Be it further enacted*, That any one of the said
2 Judges may, in the vacation, grant a writ of *Recordari*
3 *facias loquelam*, or false judgment, to remove any pro-
4 ceedings which shall be had before a Magistrate to any
5 of the County Courts, under said rules and regulations
6 as are now prescribed by law for the removal of the

7 same to the Superior Courts ; and also may issue com-
 8 missions to any Justice or Justices of the Peace to take
 9 the plea, answer or demurrer of a defendant, as is ac-
 10 customed in cases in Chancery ; and the said Justice
 11 or Justices shall have all the powers of such commis-
 12 sioners, for that purpose ; and may himself examine
 13 testimony, or take the plea, answer or demurrer of the
 14 defendant in like manner : He may, when the neces-
 15 sity of the case will not admit of delay, and the party
 16 or parties cannot have convenient access to a Judge of
 17 the Superior Courts of Law and Equity, grant injunc-
 18 tions or *ne exeat*, in cases in the Courts of Equity, but
 19 still subject to the control and further order of the
 20 Court of Equity in which the bill is filed, or application
 21 made ; and no *ne exeat* shall issue where sufficient bail
 22 has been taken for the party's appearance.

X. *Be it further enacted*, That the said Judges shall,
 2 upon conference with the Justices of the Peace of their
 3 respective counties, agree upon, and assign a certain
 4 day or days of each Term, for the transaction of the
 5 County business, laying of the taxes, granting letters of
 6 administration, appointing guardians, taking the probate
 7 of wills, appointing overseers of the roads, granting
 8 licenses, and all other matters and things now required
 9 by law of said Justices in Court, other than those im-
 10 posed by this act, upon the Court herein established :
 11 *Provided, always*, That the said Judges, whenever the
 12 said Justices of the Courts of Pleas and Quarter Ses-
 13 sions shall hold said Court for such purposes, and the
 14 transaction of such business, shall not be permitted to
 15 sit in said Court, or be members thereof.

XI. *Be it further enacted*, That if the business of any of
 2 the said Courts cannot be determined on the first day of
 3 the term, the Judge of the said Court, or three Justices
 4 of the Peace, in case of the sickness, absence or inability

5 of the said Judge to attend, may adjourn from day to
6 day, not exceeding six days, at the end of which time,
7 the cause, and matters which may be depending before
8 them, and not then finally determined, shall be con-
9 tinued to the next succeeding term.

XII. *Be it further enacted*, That in case the said Judge,
2 from indisposition, inability, or other cause, should fail
3 to attend, or hold the said Courts, or any of them, then
4 any three Justices of the said County Court, shall be
5 competent to hold the terms thereof under the same
6 rules and regulations as are now required by law; and if,
7 by reason of sickness, inability, bad weather, or other
8 accidents, it shall so happen, that the said two Justices
9 of the Court of Pleas and Quarter Sessions, who may
10 have been appointed as hereinbefore directed, to hold
11 the said Courts, in conjunction with the said Judge,
12 shall not meet for holding the said Courts on the days
13 appointed, in such case it shall and may be lawful for
14 the said Judge to appoint other Justices of said Court,
15 from day to day, of those who may be present, to hold
16 said Courts with him, without further notice of their
17 said appointment.

XIII. *Be it further enacted*, That the said Judges shall
2 each have an annual salary of such an amount, as shall
3 be allowed them by the Justices of the Court of Pleas
4 and Quarter Sessions of each County, in full compen-
5 sation for all judicial duties, which are now, or may
6 hereafter be assigned to them by the General Assembly,
7 payable quarterly, and which said salary may at any
8 time be increased, at the pleasure of said Justices; and
9 the said Justices of the several County Courts, a ma-
10 jority of the acting Justices being present, shall, at the
11 first Court which shall happen after the first day of
12 January, in each and every year, lay a tax on the lands,
13 with their improvements, and a tax on the other sub-
14 jects of taxation, as in taxes laid for the purposes of
15 county charges, to pay said salaries, of the said Judges.

XIV. *Be it further enacted*, That the said Judges may
 2 be impeached for wilfully violating any article of the
 3 Constitution, mal administration, or corruption, in like
 4 manner as the Judges of the Supreme Court and Judges
 5 of the Superior Courts, and may be removed from office
 6 for mental or physical inability, upon a concurrent reso-
 7 lution of both branches of the General Assembly, upon
 8 receiving a notice and copy of the causes alleged for re-
 9 moval, as prescribed in cases of the Judges of the Su-
 10 preme and Superior Courts.

XV. *Be it further enacted*, That no Judge shall prac-
 2 tice as an Attorney in the Court of Pleas and Quarter
 3 Sessions of the County, for which he is Judge: *Pro-*
 4 *vided*, That this act and this restriction shall not be so
 5 construed as to prevent the said Judge from practising
 6 as an Attorney and Solicitor in the other Courts of this
 7 State.

XVI. *Be it further enacted*, That the said Court of Pleas
 2 and Quarter Sessions, shall be held, and subject to the
 3 same laws, rules and regulations, as are now prescribed
 4 by law for said Courts, so far as the same may be ap-
 5 plicable to said Courts, as herein altered and changed,
 6 and not otherwise provided by this act.

XVII. *Be it further enacted*, That in all criminal or State
 2 causes, there shall be no appeal allowed from this Court,
 3 to the Superior Court, but in all such cases, when either
 4 party shall be dissatisfied with the sentence or judg-
 5 ment of any County Courts, the party, so dissatisfied,
 6 may pray an appeal from such sentence or judgment to
 7 the Supreme Court, and the same shall be granted and
 8 certified, under the same rules and regulations as are
 9 now prescribed by law, in cases of appeals from the Su-
 10 perior Courts to the Supreme Courts.

XVIII. *Be it further enacted,* That when any Judge is
 2 prevented from holding any Court, by reason of interest
 3 in any cause or matter, depending in said Court, or
 4 from having appeared as Attorney in any suit therein,
 5 or from any other matter or cause, which may render
 6 it improper that he should hold said Court, it shall be
 7 the duty of the two Justices, who may be associ-
 8 ated with him to hold said Court, to appoint some one
 9 Justice of said Court, to sit in his place and stead, and
 10 the three Justices of said Court shall, and may hold
 11 the said Court, hear and determine the causes, and pos-
 12 sess and exercise every other authority, which by law
 13 may appertain to said Court, as fully to all intents and
 14 purposes, as if said Judge were present, and associated
 15 with the said two Justices, as required in other cases
 16 by this act.

XIX. *Be it further enacted,* That the Justices of said
 2 Court shall have power and authority to allow to the
 3 said two Justices, who may from time to time be ap-
 4 pointed by the said Judge to hold the said Courts, with
 5 him, as a compensation for their services, a sum not ex-
 6 ceeding three dollars, nor less than one dollar per day
 7 for each and every day they shall hold said Court, which
 8 sum shall be fixed by the said Justices, a majority of
 9 them being present, and shall be paid out of the funds
 10 of said county, upon the certificate of the Clerk of said
 11 Court, showing the number of days each Justice has at-
 12 tended.

XX. *Be it further enacted,* That all laws and clauses of
 2 laws, coming within the meaning and purview of this
 3 act, be, and the same are, hereby repealed.

XVII. The first of these is the
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[HOUSE DOCUMENT, No. 8]

(Introduced by Mr. CARMICHAEL.—Read the first time, passed, and referred to the Judiciary Committee, and ordered to be printed.)

A BILL

To repeal, in part, an act passed at the session of the General Assembly in 1848-'49, entitled "an act to secure the title of purchasers of lands, sold under execution," and ratified on the 29th day of January, A. D. 1849.

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by the autho-*
3 *rity of the same,* That so much of the above recited act
4 as was intended to perfect the title of purchasers of
5 land, sold under a writ or writs of execution before said
6 act was in force, and all and every part thereof,
7 which gives a retrospective effect to the same, be, and
8 the same is hereby repealed; and on all questions
9 hereafter arising in any judicial proceeding, where
10 either party claims title under a sale, made prior to the
11 time at which said act took effect and went into ope-
12 ration, the Courts shall hold and apply the law as it ex-
13 isted before the passage of said act.

[SENATE DOCUMENT, No. 3.]

Introduced by Mr. BYNUM.—Passed, ordered to be printed, and referred to Committee on Corporations.

A BILL

To encourage the investment of capital for mining and manufacturing purposes.

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by the auth-*
3 *ority of the same,* That it shall be lawful hereafter for
4 any number of persons, not less than five, desirous to
5 engage in the business of mining, or to establish any
6 manufactory at any place within this State, and wish-
7 ing to become incorporated for convenience in raising
8 the necessary capital, and in conducting the business,
9 to become incorporated in the manner following: Such
10 persons shall, by articles of agreement, under their own
11 hands and seals, acknowledge, before the Clerk of the
12 County Court for the county where such mining is to
13 be conducted, or manufactory established, to be recorded
14 in a book to be kept for that purpose, determine and
15 state as follows: 1st, the corporate name; 2d, the busi-
16 ness proposed; 3d, the place where it is proposed to be
17 carried on; 4th, the amount of capital; 5th, the num-
18 ber of shares, and the amount of each, not less than
19 fifty dollars; 6th, the length of time desired, not to ex-
20 ceed thirty years; and 7th, the names of persons who
21 have subscribed; the shares by them respectively taken;
22 and the amount paid in cash on each share. The mo-
23 ney so paid on each share shall not be less than one

24 dollar per share, and shall not, in the whole, be less
 25 than one hundred dollars, and shall be paid to the Clerk
 26 of the County Court of the proper county, and the cer-
 27 tificate of the Clerk, acknowledging said payment, shall
 28 be endorsed on the said article of agreement.

II. *Be it further enacted*, That, on filing said articles
 2 of agreement, acknowledged and recorded as aforesaid,
 3 with the Clerk's receipt, endorsed as aforesaid, in the of-
 4 fice of Secretary of State, it shall be the duty of the Go-
 5 vernor to issue letters patent, under the Great Seal of
 6 the State, declaring said persons, and their successors,
 7 a Corporation, according to the terms prescribed in
 8 said articles of agreement, and to cause notice thereof
 9 to be given in some newspaper published in the county
 10 where such manufactory is proposed to be established,
 11 or mining conducted; which notice shall set forth the
 12 capital of said company, number and value of shares,
 13 and the substance of said articles of agreement; and
 14 when no newspaper is published in said county, then in
 15 some newspaper published in some neighboring county.

III. *Be it further enacted*, That, by virtue of said letters
 2 patent, the said persons shall become and be a corpora-
 3 tion, accordieg to the terms of said articles of agree-
 4 ment; and, as such, may sue and be sued, plead and be
 5 pleaded, in all Courts, and before all tribunals having
 6 jurisdiction of the subject matter; have and use a com-
 7 mon seal, alter and renew the same at pleasure, make
 8 all bye-laws, rules and regulations, not inconsistent with
 9 the laws of this State, necessary for the well ordering
 10 and conducting the affairs of said corporation, and may
 11 take and hold or sell all such real estate as may be ne-
 12 cessary for the transaction of their business, or for the
 13 security or collection of their debts, and shall further
 14 have all the powers granted, and be subject to all the
 15 liabilities in Chapter 26, Revised Statutes, respecting
 16 corporations.

IV. *Be it further enacted,* That it shall not be lawful
 2 for any company, that may organize under this act, to
 3 declare any dividend when the debts of the company ex-
 4 ceed their solvent credits.

V. *Be it further enacted,* That it shall be the duty of
 2 said company, on or before the expiration of each year
 3 after the organization of any company under this act,
 4 to cause to be made an exhibit of the amount of the
 5 receipts and disbursements of the company for the
 6 year next preceding, as also the liabilities and credits
 7 of said company, which exhibit shall be under the oath
 8 of the proper officer of said company, and filed in the
 9 office of the Clerk of the County Court of the county
 10 wherein said company may have established their busi-
 11 ness, which exhibit shall at all times be subject to the
 12 inspection of the public by said clerk.

VI. *Be it further enacted,* That, so soon as said corpo-
 2 ration shall be actually organised by the election of offi-
 3 cers, the money paid to the clerk, as above required,
 4 shall, by him, be paid over to the proper officer thereof.

VII. *Be it further enacted,* That the letters patent of
 2 the Governor, shall, in all cases, in all Courts and juris-
 3 dictions in this State, be deemed and taken as *prima*
 4 *facie* evidence of the regular incorporation and organi-
 5 zation of the company to which such letters patent
 6 may be issued, and in all questions of pleading on any
 7 suit to which said company may be a party, such let-
 8 ters patent shall have the full effect of an act of incor-
 9 poration, by a public law of the State.

VIII. *Be it further enacted,* That the Secretary of
 2 State shall record, in a book to be kept for the purpose,
 3 all letters patent so issued as above, and in all cases
 4 where the original letters patent are lost or mislaid,

5 copies, under the hand of the Secretary, shall be ad-
 6 mitted as evidence in all controversies at law, in like
 7 manner as the originals.

IX. *Be it further enacted*, That no corporation con-
 2 stituted by virtue of this act, shall engage in the busi-
 3 ness of banking, except that it shall be lawful for said
 4 company to issue, and to take, and, when necessary, to
 5 endorse all such bonds, notes and bills of exchange as
 6 may be necessary and usual in their particular trade.

X. *Be it further enacted*, That this act shall be in force
 2 from and after its ratification.

A BILL

Abolishing Trial by Jury in the County Court, and for the more speedy and certain Administration of Justice.

1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the State shall hereafter be divided into nine Judicial Circuits, and three Judicial Districts: the first, second and third circuits, shall form the first district; the fourth, fifth and sixth circuits, shall form the second district; and the seventh, eighth and ninth circuits, shall form the third district: and the present Judges of the Superior Courts of Law and Equity, and two others to be elected by the present General Assembly, as hereinafter provided, and their successors in office, shall be allotted to the several districts, as may and shall be directed by an act supplemental to this, so as to assign three of said Judges to each District; and the Judges so allotted to any District, shall ride the Circuits composing the same, and hold the Courts therein as may be arranged by themselves, so that no Judge shall ride and hold the Courts in the same Circuit twice in succession; and the Judges of the Superior Courts of Law and Equity shall hereafter receive, each, a salary of two thousand two hundred and fifty dollars per annum, to be paid quarterly, in the manner

23 and on the day specified in the first section of the Re-
 24 vised Statutes, entitled "salaries and fees;" and all
 25 laws and clauses of laws, allowing Judges extra com-
 26 pensation for the holding of Special Terms of the Su-
 27 perior Courts of Law and Equity, shall be, and the
 28 same are hereby repealed.

II. *Be it further enacted*, That whenever the business
 2 on the Civil Docket of any Superior Court of Law, or
 3 causes pending in any Court of Equity, cannot be tried
 4 and disposed of at the regular Term of said Court, and
 5 a special Term of said Court is deemed necessary, it
 6 shall be the duty of the presiding Judge to appoint, by
 7 an order of record in the Superior Court of Law, a
 8 special Term of said Superior Court of Law and Equity,
 9 to commence on some certain day designated in said
 10 order, before the time appointed by Law for the holding
 11 of the next succeeding regular Term of said Court, and
 12 return and hold the same under the rules and regula-
 13 tions which now exist, or which may be hereafter pre-
 14 scribed for the holding of regular Terms of said Court;
 15 *Provided*, Nothing in this act shall be so construed as
 16 to limit said special Term to one week, but the same
 17 may and shall continue until all the causes on the Civil
 18 Docket in the Superior Court of Law, and suits pending
 19 in the Court of Equity, shall be tried or continued, ac-
 20 cording to the usages and practice of said Courts, and
 21 the Laws of the State.

III. *Be it further enacted*, That Jurors shall be drawn
 2 and summoned to attend said special Terms of the Su-
 3 perior Courts of Law, in the manner now required by
 4 Law, who shall attend the same and serve as Jurors,
 5 under the same penalties as Jurors are now under, to
 6 attend and serve at the regular Terms of said Court.

IV. *Be it further enacted*, That no process, except sub-
 2 pœnas, commissions to take the depositions of witnesses,
 3 or other process to compel their attendance, shall be
 4 made returnable to such special Term; but the same
 5 may and shall be made returnable to the next regular
 6 Term.

V. *Be it further enacted*, That said Superior Courts of
 2 Law and Equity shall continue to have and exercise the
 3 same jurisdiction, both civil and criminal, at Law and in
 4 Equity that the present Superior Courts of Law and
 5 Equity, have and exercise, and in addition thereto the
 6 said Superior Courts of Law shall hereafter have and
 7 exercise sole and exclusive original jurisdiction of all
 8 pleas whatsoever, requiring the intervention of a jury,
 9 whereof the present Superior Courts or the courts of
 10 Pleas and Quarter Sessions have heretofore had juris-
 11 diction.

VI. *Be it further enacted*, That hereafter no suit civil or
 2 criminal requiring the intervention of a jury shall origi-
 3 nate in any of the courts of Pleas and Quarter Sessions
 4 of this State, nor shall any juries be summoned to attend
 5 any of said courts of Pleas and Quarter Sessions.

VII. *Be it further enacted*, That all appeals from judg-
 2 ments rendered by Justices of the Peace in civil or crimi-
 3 nal cases and all recognizances taken by Justices of the
 4 Peace in criminal proceedings shall be returned to the
 5 next ensuing Superior Court of Law for the county in
 6 which they are taken, under the same rules and regula-
 7 tions now required by law.

VIII. *Be it further enacted*, That the courts of Pleas and
 2 Quarter Sessions for the several counties in this State
 3 are hereby required, at their terms next after this act

4 goes into operation, to take up their respective State
5 dockets, and in regular order bind over the parties there-
6 in, together with the witnesses, to the next ensuing Su-
7 perior Court of Law for each county respectively.

IX. *Be it further enacted*, That it shall be the duty of the
2 clerks of the several courts of Pleas and Quarter Ses-
3 sion in this State, within twenty days immediately after
4 the terms of their respective courts held next after this
5 act goes into effect, to make out a transcript of all suits
6 whether civil or criminal then pending in their respec-
7 tive courts, and deliver the same, together with all pa-
8 pers relating thereto, to the clerks of the Superior Courts
9 of their respective counties.

X. *Be it further enacted*, That it shall be the duty of
2 the clerks of the several Superior Courts to receive such
3 transcripts and original papers, and immediately enter
4 them on their respective dockets in regular succession,
5 observing the order of precedence of such suit as indi-
6 cated by its number, and in such order said suits shall
7 stand for trial.

XI. *Be it further enacted*, That when any will or paper
2 purporting to be the last will and testament of any per-
3 son is brought into any of the courts of Pleas and Quar-
4 ter Sessions of this State for probate and the probate
5 thereof is contested and an issue of *devisavit vel non*, the
6 clerk of such court shall make a record of such issue
7 and shall, within ten days after the rise of such court,
8 make out a transcript of such record, which, together
9 with the original will and paper purporting to be a will
10 shall be delivered by him to the clerk of the Superior
11 Court of the county in which the same may be pending
12, and the clerk of the Superior Court shall receive and
13 enter the same on his docket, and the several Superior

14 Courts shall have full power and authority to try and
 15 determine all such cases, and it shall be the duty of the
 16 clerks of said Superior Courts, whenever any case may
 17 be determined in accordance with the above provisions,
 18 to issue a certificate thereof to the court of Pleas and
 19 Quarter Sessions of the county from which the same
 20 may have originated, with the original will or paper
 21 which shall be recorded by said court of Pleas and
 22 Quarter Sessions as evidence of the probate or rejection
 23 of said will or paper.

XII. *Be it further enacted,* That in all cases of caveats
 2 for land the same proceedings shall be had and observed
 3 by the clerks of the courts of Pleas and Quarter Sessions
 4 and Superior Courts respectively as prescribed in the
 5 eleventh section of this act in regard to wills; and in all
 6 issues of bastardy, in all issues of fraud made up under
 7 the insolvent debtor's law, and in all other cases whatso-
 8 ever, where the courts of Pleas and Quarter Sessions
 9 properly have jurisdiction of the subject matter, but on
 10 issue being joined the intervention of a jury may be nec-
 11 essary to try the same, and where the said courts have
 12 heretofore had the right to make up such issue and try
 13 the same, it shall be the duty of the clerks of said courts
 14 to make out a transcript of the record of any such case
 15 within ten days after the rise of the court at which such
 16 issue may have been joined, and deliver it with all papers
 17 relating thereto to the clerk of the Superior Court of that
 18 county; and it shall be the duty of said Superior Court
 19 clerk to receive and enter the same on his docket, and
 20 the said Superior Courts are hereby authorised to take
 21 such proceeding therein as required by law.

XIII. *Be it further enacted,* That on any cause or issue
 2 being removed into any of said Superior Courts, from
 3 any Court of Pleas and Quarter Sessions, or other in

4 ferior tribunal, under the provisions of this act, it shall
 5 be the duty of the several clerks of said Courts, on the
 6 application of either plaintiff or defendant, to issue sub-
 7 pœnas and other process as now required by law.

XIV. *Be it further enacted,* That hereafter the clerks of
 2 the several Superior Courts of Law in this State, by
 3 themselves or their deputy, shall be required to attend
 4 in their respective offices for the transaction of business
 5 each and every day in the year, between the hours of
 6 nine and twelve o'clock in the morning and two and
 7 five o'clock in the evening, except on Sundays and the
 8 Fourth of July; and that if any clerk of the several
 9 Courts of Pleas and Quarter Sessions, or of the several
 10 Superior Courts, shall either fail or neglect to perform
 11 the duties required of him by the several provisions of
 12 this act, such clerk shall forfeit and pay the sum of one
 13 hundred dollars for each and every case of failure or
 14 neglect, to be recovered by an action of debt, in a Court
 15 of Record, in the name of any person sueing for the
 16 same, and be further liable to an action on the case, for
 17 damages to the person injured by such failure or neg-
 18 lect.

XV. *Be it further enacted,* That the several solicitors of
 2 the Superior Courts, now in office, shall be assigned to
 3 the circuits in which they respectively, reside, as follows,
 4 to wit :
 5
 6
 7 and there shall be elected by the joint vote of the two
 8 houses of the General Assembly, two other solicitors of
 9 said Courts, in addition to those now in office, one for
 10 the Circuit, and one for the Circuit,
 11 who shall receive the same salaries and fees, and hold
 12 the office for the same time as the present solicitors of
 13 the Superior Courts.

XVI. *Be it further enacted*, That the present General
 2 Assembly shall provide for the division of the State into
 3 three Judicial Districts and nine Judicial Circuits, as
 4 aforesaid, and shall fix the times for holding the said
 5 several Superior Courts therein.

XVII. *Be it further enacted*, That the several Courts of
 2 Pleas and Quarter-Sessions in this State, shall hereafter
 3 be held at the time and in the manner in which they
 4 have usually been held, and shall be used as Courts of
 5 Probate, and for the transaction of county business only,
 6 and shall not hold their sessions for a longer time than
 7 two days in each term thereof.

XVIII. *Be it further enacted*, That this act shall take ef-
 2 fect and be in force from and after the day of next.

XIX. *Be it further enacted*, That all laws and clauses
 2 of laws, conflicting with the provisions of this act, be,
 3 and the same are, hereby repealed.

A BILL

10 passed of said officers have been performed.
16 several Courts of said Courts that the services now to
14 tively extending to the Treasurer the certificate of the
13 other half at the end of twelve months on their respec-
12 of six months from the first day of each year, and the
11 paid by the Treasurer of the State: one- $\frac{1}{2}$ at the end
10 thousand dollars per annum, and no other fees to be
9 perian Courts shall respectively receive a salary of one
8 thereof, the Attorney General and Solicitor of the Su-
7 Supreme Court which he shall attend, and in addition
6 the sum of one hundred dollars for each term of the
5 the Solicitor, who may attend in the Court, and receive
4 January next, the Attorney General of the State, or
3 ty of the same, that hour, and when the first day of
2 York, Carolina, and it is hereby enacted by the Senate
1. It is enacted by the Senate and Assembly of the State of

[SENATE DOCUMENT, No. 5.]

[Introduced by Mr. KELLY.—Read the first time and passed, and referred to Committee on Judiciary—ordered to be printed.]

• A BILL

To regulate the Salary of the Attorney General, and Solicitors of the Superior Courts, and for other purposes.

1. *Be it enacted by the General Assembly of the State of*
 2 *North Carolina, and it is hereby enacted by the author-*
 3 *ity of the same,* That from and after the first day of
 4 January next, the Attorney General of this State, or
 5 the Solicitor, who may attend in his place, shall receive
 6 the sum of one hundred dollars for each term of the
 7 Supreme Court which he shall attend ; and in addition
 8 thereto, the Attorney General and Solicitors of the Su-
 9 perior Courts shall respectively receive a salary of one
 10 thousand dollars per annum, and no other fees, to be
 11 paid by the Treasurer of the State : one-half at the end
 12 of six months from the first day of each year, and the
 13 other half at the end of twelve months, on their respec-
 14 tively exhibiting to the Treasurer the certificates of the
 15 several Clerks of said Courts, that the services now re-
 16 quired of said officers have been performed.

II. *Be it further enacted*, That after the passage of this
 2 act, all fees now to be paid by the party or parties con-
 3 victed, to the Attorney General or Solicitors of the Su-
 4 perior Courts, shall be paid to the Sheriffs of the seve-
 5 ral Counties of this State, which said fees shall be ac-
 6 counted for and paid over by the said several Sheriffs,
 7 to the Treasurer, at the same time and subject to the
 8 same rules, regulations, restrictions and penalties, that
 9 are now in force in regard to their settlements for the
 10 State tax with the Comptroller.

III. *Be it further enacted*, That in all cases where, upon
 2 conviction in any State prosecution, the Attorney Gen-
 3 eral and Solicitor's fees are now three dollars, after the
 4 passage of this act, said fee shall be four dollars, the
 5 same to be paid over and accounted for as provided in
 6 the last section of this act.

IV. *Be it further enacted*, That the several bonds here-
 2 after to be given by the Sheriffs of this State, for the
 3 collection and accounting for the public taxes, shall be
 4 construed so as to embrace all the duties and liabilities
 5 imposed on said officers respectively, by virtue of the
 6 passage of this act.

V. *Be it further enacted*, That all laws coming in con-
 2 flict with the provisions of this act, are repealed, and
 3 that this act shall be in force from and after the first
 4 day of January next.

[SENATE DOCUMENT, No. 6.]

[Read first time and passed and ordered to be printed]

A BILL

To incorporate Literary Institutions and Benevolent and Charitable Societies.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful for any number of persons, not less than seven, desirous of engaging in any schemes of charity or benevolence, or for the encouragement or promotion of education, to become incorporated in the manner following: Such persons shall by articles of agreement, under their hands and seals, acknowledge before the clerk of the county court, where such association shall hold its meetings, and recorded in a book to be kept for that purpose, stating as follows: 1st, their corporate name, 2nd, the business proposed, 3rd, the place where it is proposed to be carried on, 4th, the length of time desired, not exceeding thirty years, 5th, the names of persons who have subscribed.

II. *Be it further enacted,* That the said articles of agreement, after having been thus acknowledged and recorded, shall be transmitted to, and filed in the office of the Secretary of State, whereupon the Governor shall issue

5 Letters Patent, under the Great Seal of the State, de-
 6 claring said persons and their successors, a corporation
 7 according to terms prescribed in said articles of agree-
 8 ment, and cause notice thereof to be published in some
 9 newspaper in the county where such articles of agree-
 10 ment are recorded, which notice shall set forth the sub-
 11 stance of such articles of agreement; if no newspaper
 12 is published in said county, then is the publication to be
 13 made in the newspaper of some neighboring county.

III. *Be it further enacted*, That each association of per-
 2 sons incorporated according to the provisions of this
 3 act, shall have power by their corporate name to sue and
 4 be sued, plead and be pleaded, may acquire, hold and
 5 transfer such real, personal or mixed estate or property,
 6 as may be necessary to carry out the purposes of their
 7 creation, shall each have succession and a common seal,
 8 to be altered and renewed at pleasure, shall have power
 9 to elect the necessary officers, and make all rules, regu-
 10 lations and by-laws not inconsistent with the laws of
 11 the State, and that each of said incorporations thus in-
 12 corporated, shall have all the power and privileges, and
 13 be subject to all the liabilities applied to corporations in
 14 chapter twenty-six of revised statutes of North Caroli-
 15 na, and that each of said incorporations shall pay a fee
 16 of one dollar to the clerk of the county court, for prov-
 17 ing and recording such articles of agreement, the ex-
 18 pense of publication, and a fee of one dollar for charter.


[SENATE DOCUMENT, No. 7.]

REPORT

FROM THE COMMITTEE

ON

TABULAR STATEMENT.



RALEIGH:
SEATON GALES, PRINTER TO THE LEGISLATURE:

1852

THE Joint Select Committee to whom was referred a Resolution directing them to prepare a Tabular Statement of the federal population of North Carolina, and the federal population of each County, submit the following

REPORT :

That they have carefully examined the Tabular Statement made out (and furnished to each member of the General Assembly) by the Comptroller, bearing date 9th July, 1852, with the books in the Executive Office by which the Literary Board have distributed the Common School Fund, and find the same to be correct, except the following Counties, which should read as follows :

Guilford County,	18,480
Surry,	8,143
Yadkin,	9,500
Wayne,	11,478

All of which is respectfully submitted.

GEO. D. BOYD, CH'N.

THE Joint Select Committee appointed to prepare and report a Tabular Statement of the population of North Carolina, contained in the several Counties, agreeably to the last Census, and the Federal population contained in each County,

REPORT:

That the National Intelligencer, of the 25th of October, 1851, contains the most authentic information to be found in any of the Departments of the State; and the Committee have adopted the Tabular Statement therein contained, (after a careful examination of the same,) as the basis upon which the calculation of federal numbers is founded.

The Committee deem it proper further to state, that, in the County of Haywood, seven hundred and ten male and female Indians are included in the estimate; and in the County of Macon, one hundred and twenty one male and female Indians are also included in the estimate.

All of which respectfully submitted,

GEO. D. BOYD, CH'N.

TABULAR STATEMENT reported by the Joint Select Committee appointed for that purpose.

Counties.	White Males.	White Females.	Colored Males.	Colored Females.	Total Free Population.	Slaves.	Federal Population.
Alamance,	3,806	4,218	164	160	8,248	3,196	10,166
Alexander,	2,274	2,379	9	15	4,677	543	5,003
Anson,	3,298	3,258	48	53	6,657	6,832	10,756
Ashe,	4,102	3,994	45	41	8,182	595	8,539
Beaufort,	3,764	3,899	439	465	8,567	5,249	11,716
Bertie,	2,560	2,784	153	160	5,657	7,194	9,973
Bladen,	2,539	2,516	163	191	5,409	4,358	8,024
Brunswick,	1,816	1,835	155	164	3,970	3,302	5,951
Buncombe,	5,914	5,687	56	51	11,708	1,717	12,738
Burke,	2,669	2,808	77	86	5,640	2,132	6,919
Cabarrus,	3,502	3,441	62	57	7,022	2,685	8,673
Caldwell,	2,455	2,551	43	65	5,114	1,203	5,836
Camden,	1,776	1,796	142	148	3,862	2,187	5,174
Carteret,	2,546	2,621	58	91	5,316	1,487	6,208
Caswell,	3,420	3,661	205	213	7,499	7,770	12,161
Catawba,	3,582	3,690	8	13	7,293	1,569	8,234
Chatham,	5,986	6,178	160	140	12,464	5,985	16,055
Cherokee,	3,154	3,339	5	3	6,501	337	6,703
Chowan,	1,371	1,578	45	59	3,048	3,673	5,252
Cleveland,	4,327	4,265	34	23	8,649	1,747	9,697

Counties.	White Males.	White Females.	Colored Males.	Colored Females.	Total Free Population.	Slaves.	Federal Population.
Columbus,	2,138	2,119	77	72	4,406	1,503	5,308
Craven,	3,583	3,639	692	844	8,758	5,951	12,329
Cumtland,	6,135	6,312	436	510	13,393	7,217	17,723
Curituck,	2,223	2,377	95	94	4,789	2,447	6,257
Davidson,	5,979	6,160	102	87	12,328	2,992	14,123
Davie,	2,804	2,809	45	37	5,695	2,171	6,998
Duplin,	3,526	3,639	176	166	7,507	6,007	11,111
Edgecomb,	4,088	4,277	139	138	8,642	8,547	13,770
Forsyth,	4,604	4,999	68	84	9,815	1,353	10,627
Franklin,	2,734	2,951	255	266	6,206	5,507	9,510
Gaston,	2,947	2,981	15	18	5,961	2,112	7,228
Gates,	2,015	2,143	184	213	4,555	3,871	6,878
Granville,	5,092	5,204	511	577	11,394	9,865	17,303
Greene,	1,533	1,721	64	52	3,375	3,244	5,321
Guilford,	7,868	8,006	337	357	16,568	3,186	18,480
Halifax,	2,825	8,933	882	990	7,635	8,954	13,007
*Haywood,	2,984	2,947	6	9	6,656	418	6,907
Henderson,	3,013	2,879	21	16	5,929	924	6,483
Hertford,	1,703	1,850	428	445	4,426	3,716	6,656
Hyde,	2,338	2,460	107	104	5,009	2,627	6,585
Iredell,	5,108	5,439	14	16	10,577	4,142	13,062

Haywood—Male Indians, 357; Female do 353—710.

Counties.	White Males.	White Females.	Colored Males.	Colored Females.	Total Free Population.	Slaves.	Federal Population.
Johnston,	4,412	4,488	96	67	9,063	4,663	11,861
Jones,	1,049	1,090	73	69	2,281	2,757	3,935
Jackson,	1,775	1,792	72	73	3,712	4,116	6,182
Lenoir,	2,734	2,927	14	16	5,691	2,055	6,924
Lincoln,	2,367	2,410	110	97	4,984	1,262	5,741
McDowell,	2,832	2,780	56	50	5,840	549	6,169
*Macon,	2,353	2,262	154	171	4,940	3,367	6,960
Martin,	4,148	4,136	62	95	8,441	5,473	11,725
Mecklenburg,	2,515	2,540	24	20	5,099	1,773	6,163
Montgomery,	3,476	3,721	79	90	7,366	1,976	8,552
Moore,	2,908	3,064	313	316	6,601	4,056	9,035
Nash,	4,094	4,096	409	488	9,087	8,581	14,236
New Hanover,	2,875	3,119	418	412	6,824	6,511	10,731
Northampton,	2,427	2,578	79	91	5,175	3,108	7,040
Onslow,	5,639	5,691	239	242	11,811	5,244	14,957
Orange,	2,319	2,292	596	638	5,845	3,105	7,708
Pasquotank,	1,831	1,798	218	232	4,079	3,252	6,030
Perquimans,	2,723	2,870	153	142	5,888	4,893	8,824
Person,	3,255	3,409	40	60	6,764	6,633	10,744
Pitt,	6,869	6,926	202	195	14,192	1,640	15,176
Randolph,							

Macon—Male Indians, 63; Female do 58—121.

Counties.	White Males.	White Females.	Colored Males.	Colored Females.	Total Free Population.	Slaves.	Federal Population.
Richmond,	2,409	2,481	120	104	5,114	4,704	7,936
Robeson,	3,636	3,654	551	620	8,461	4,365	11,080
Rockingham	4,245	4,502	202	217	9,166	5,329	12,363
Rowan,	4,844	5,057	63	52	10,016	3,854	12,328
Rutherford,	5,150	5,275	104	116	10,645	2,905	12,388
Sampson,	4,175	4,249	267	209	8,900	5,685	12,311
Stanly,	2,708	2,729	25	24	5,486	1,436	6,348
Stokes,	3,575	3,689	78	71	7,413	1,793	8,489
Surry,	7,933	8,238	120	152	16,443	2,000	8,143
Tyrrell,	1,636	1,665	64	66	3,431	1,702	4,452
Union,	3,997	4,021	26	25	8,069	1,982	9,258
Wake,	6,747	7,430	636	665	15,478	9,409	21,123
Warren,	2,236	2,368	235	206	5,045	8,867	10,365
Washington,	1,586	1,630	121	114	3,451	2,215	4,780
Watauga,	1,684	1,558	16	13	3,271	129	3,348
Wayne,	3,817	3,985	348	316	8,466	5,020	11,478
Wilkes,	5,258	5,488	94	117	10,957	1,142	11,642
*Yadkin,	*	*	*	*	*	*	9,500
Yancy,	3,965	3,844	24	26	7,859	346	8,067
	272,369	280,095	13,226	13,970	580,491	288,412	753,536

* Whites, free colored and slaves included in Surry.

[Introduced by Mr. CALDWELL.—Passed the first time ; and referred to the Committee on Corporations, and ordered to be printed.

A BILL

To incorporate the Bank of Charlotte.

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by the autho-*
3 *rity of the same,* That a Bank shall be established in
4 the town of Charlotte, the capital stock of which shall
5 not exceed two hundred thousand dollars, divided into
6 shares of fifty dollars each ; and, for the purpose of re-
7 ceiving subscriptions for said stock, books shall be open-
8 ed on the 17th day of February, 1853, or within twenty
9 after the ratification hereof, and remain open for the
10 space of sixty days, at the following places, and under
11 the superintendence of the following persons, to wit:—
12 At Charlotte, under the superintendence of Benjamin
13 Morrow, Samuel A. Davis, W. W. Elms, Joseph H.
14 Wilson, William Johnson, H. B. Williams, and David
15 Parks, or a majority of them ; at Statesville, under the
16 superintendence of Robert Simonton, Samuel R. Bell,
17 and Joseph W. Stockton, or a majority of them ; at Lin-
18 colnton, under the superintendence of C. Coatesworth
19 Henderson, Leonard E. Thompson, Benjamin W. Guion,
20 and Robert W. Johnson, or a majority of them ; and at
21 the same time, at such other places, and under the su-
22 perintendence of such other persons as may be designa-
23 ted by the Commissioners to receive subscriptions at
24 Charlotte.

11. *Be it further enacted,* That one-fifth of such shares shall be paid in gold and silver, or their equivalent, to the Commissioners above named, or those appointed by them, at the time of subscribing; that another fifth shall be paid within sixty days thereafter; that another fifth shall be paid within one hundred and twenty days thereafter; that another fifth shall be paid within three months after the time appointed for paying the third instalment; and the remaining fifth shall be paid within three months after the time of paying the fourth instalment: and if any subscriber shall fail to pay any instalment at the time stipulated, he shall pay interest thereon at the rate of six per cent. per annum, and his stock shall be forfeited, and may be sold by the Bank, and the proceeds applied to the payment of the aforesaid deficient instalment, and he shall be held responsible for the same, at the option of the Bank; and the remainder, if any, of such sale, to be paid over to the subscriber: *Provided,* That, after the Bank shall have been organized, as herein after provided, the remaining unpaid instalments shall be paid to the Directors or their agents; and it shall be lawful for any subscriber to pay the whole of his subscription, or any greater part than is hereby required, before the time limited for the same; and every subscriber so paying in advance, shall have a discount at the rate of six per cent. per annum on each advance, computing the same from the time when payment is made to the time when it is required to be made.

III. *Be it further enacted*, That when six hundred shares
2 are subscribed, and the sum of fifteen thousand dollars is
3 actually paid to the Commissioners aforesaid, the sub-
4 scribers to the said Bank, their successors and assignees,
5 shall be, and are hereby, created a body politic, in law
6 and in fact, by the name and style of the "Bank of
7 Charlotte," and shall so continue until the first day of
8 January, eighteen hundred and ; and by the

9 name and style aforesaid they shall be able and capable
 10 in law to have, purchase, receive, possess, enjoy and
 11 retain, to themselves and their successors, lands, tene-
 12 ments, rents, hereditaments, goods, chattels and effects,
 13 and the same to grant, devise, alien and dispose of; to
 14 sue and be sued; plead and be impleaded; answer and
 15 be answered; defend and be defended unto, in Courts of
 16 Record, or in any place whatsoever; and also to make,
 17 have, and use a common seal, and the same to break
 18 and renew at their pleasure; and also to ordain, estab-
 19 lish, and put into execution such bye-laws, ordinances,
 20 and regulations, as shall seem necessary and convenient
 21 for the government of said corporation; and, for the
 22 making whereof, general meetings of the stockholders
 23 may be called in the manner hereinafter specified; and,
 24 generally, to do and execute all acts, matters and things
 25 which a corporation and body politic, in law, may or
 26 can lawfully execute, and be subject to the rules, regu-
 27 lations, restrictions and provisions hereinafter prescrib-
 28 ed and declared.

IV. *Be it further enacted*, That, if it shall happen, when
 2 the books shall be opened, as aforesaid, that a greater
 3 sum than two hundred thousand dollars shall be sub-
 4 scribed by individuals, or by bodies corporate, it shall
 5 be lawful for the commissioners to reduce such sub-
 6 scriptions according to a scale to be by them establish-
 7 ed for that purpose, to the aforesaid amount of two
 8 hundred thousand dollars: *Provided*, That no subscrip-
 9 tion of two shares or under shall be scaled, until all larger
 10 subscriptions shall first be reduced to an equality with
 11 them; and, if six hundred shares should not be subscri-
 12 bed within the sixty days aforesaid, the commissioners
 13 may keep open the books for subscription twelve months
 14 longer, unless the sum be sooner subscribed; and the
 15 Directors, elected as hereinafter prescribed, shall be al-
 16 lowed to keep open the subscription books until the

17 whole of the stock shall be taken ; and open and close
 18 the same, previous thereto, at their discretion. The
 19 commissioners appointed to receive subscriptions, who
 20 shall be appointed as herein prescribed at other places,
 21 shall pay over to the commissioners herein appointed
 22 to receive subscriptions at Charlotte, all moneys paid
 23 to them on stock subscriptions, immediately on receiv-
 24 ing the same.

V. *Be it further enacted*, That, as soon as six hundred
 2 shares shall be taken in the stock of the said Bank, and
 3 fifteen thousand dollars paid to the commissioners who
 4 keep the books, notice shall be given in the Western
 5 Democrat, published in the town of Charlotte, or in
 6 some other public manner, and a meeting of the subscri-
 7 bers, to be held at least ten days after the date of the no-
 8 tice, shall be called. If, at this meeting, those, or their
 9 agents, who have a majority of votes, according to the
 10 rates hereinafter described, be present, (if not, another
 11 meeting shall be called,) they shall proceed to the election
 12 of seven Directors, who shall take charge of the books
 13 and money in the hands of the commissioners, and im-
 14 mediately pursue the usual means to put the bank into
 15 operation. The said directors shall remain in office
 16 until the time prescribed in the bye-laws of the said cor-
 17 poration for the annual meeting of the stockholders, or
 18 until their successors shall be appointed; and, at the
 19 time which shall be prescribed, as aforesaid, in each
 20 year, or at any time thereafter, meetings of the stock-
 21 holders shall be held in the town of Charlotte, for the
 22 purpose of electing directors, inquiring into the affairs
 23 of the institution, and making such regulations as may
 24 be deemed fit and necessary.

VI. *Be it further enacted*, That the following rules,
 2 regulations and provisions shall form and be the funda-
 3 mental articles of the constitution of the corporation.

4 A meeting of the stockholders cannot be held, unless
 5 those who have a majority of the whole number of
 6 votes be present, and every act shall require the sanc-
 7 tion of a majority of the votes which may be present :
 8 every stockholder, holding one share, and not more
 9 than two, shall be entitled to one vote ; for every two
 10 shares above two, and not exceeding ten, one vote ; for
 11 every three shares, above ten, and not exceeding
 12 forty, one vote ; for every six shares above forty and
 13 not exceeding one hundred, one vote ; for every ten
 14 shares above one hundred, and not exceeding two hun-
 15 dred, one vote ; for every twenty shares above two
 16 hundred, one vote. After the first meeting, no share or
 17 shares shall confer a right of voting, which shall not
 18 have been holden three calendar months previous to
 19 the day of voting. Stockholders may vote at general
 20 meetings and elections by proxy, the proxy being him-
 21 self a stockholder. None but a stockholder, who is a
 22 citizen of the State, shall be eligible as a director ; and
 23 the stockholders shall appoint annually seven directors
 24 to manage the bank, and when appointed, they shall
 25 choose one of their number to be President of the bank,
 26 and shall manage the institution as shall seem best, un-
 27 less otherwise directed by the stockholders. No less
 28 than three directors, of whom the President shall al-
 29 ways be one, shall constitute a Board for the transac-
 30 tion of business, except in case of absence or sickness
 31 of the President, when he may, by writing, nominate
 32 any other director to supply his place. If a vacancy in
 33 the directory shall occur, by death, resignation or other-
 34 wise, the remaining directors shall fill such vacancy
 35 until the succeeding annual meeting of the stockhol-
 36 ders. A number of stockholders, not less than ten,
 37 who together shall be owners of three hundred shares
 38 or upwards, shall have power at any time to call a
 39 general meeting of the stockholders, for purposes rela-
 40 tive to the institution, giving at least twenty days

41 notice in a public gazette, and specifying the object or
 42 objects of such meeting. The directors shall annually
 43 elect such officers as may be deemed necessary to per-
 44 form the business of the bank, and may remove them or
 45 either of them at pleasure : those officers shall be re-
 46 quired to give bonds, with two or more securities, in
 47 sums not less than ten thousand dollars, with a condi-
 48 tion for good behavior and faithful performance of duty;
 49 they shall be allowed, by the directors, such compensa-
 50 tion for their services as shall be deemed reasonable ;
 51 but compensation to the President and Directors shall
 52 be granted at the pleasure of the stockholders. The
 53 stock of said corporation shall be assignable and trans-
 54 ferable, according to the rules which shall be instituted
 55 in that behalf, by the laws and ordinances of the same.

VII. *Be it further enacted*, That the said corporation
 2 shall neither directly nor indirectly trade in anything
 3 except bills of exchange, promissory notes and bonds
 4 expressing on the face of them to be negotiable and
 5 and payable at said bank, gold or silver bullion, or in
 6 the sale of goods really and truly pledged for money
 7 lent, and not redeemed in due time, or in goods which
 8 shall be the produce of its lands, or in mint certificates,
 9 and the public debts of the United States and of
 10 this State : *Provided*, The investment in such stock
 11 shall not exceed one half of the capital stock of this
 12 bank. The said corporation shall purchase and hold
 13 only such lands, tenements, rents and hereditaments as
 14 shall be required for the convenient transaction of its
 15 business, or shall have been *bona fide* mortgaged to it,
 16 by way of security, or conveyed to it in satisfaction of
 17 debts previously contracted in the course of its deal-
 18 ings, or purchased at sale upon judgments which shall
 19 have been obtained for such debts.

VIII. *Be it further enacted*, That said corporation shall
 2 not take more than six *per cent. per annum*, for or upon

3 its loans or discounts, which interest may be received
 4 in advance at the time of discount, and the said bank
 5 shall, at no time, have in circulation more than twice
 6 the amount of its capital actually paid in.

IX. *Be it further enacted*, That the bills, obligations
 2 obligatory and of credit, under the seal of the
 3 said corporation, which shall be made to any person or
 4 persons, shall be assignable by endorsements thereon,
 5 under the hand or hands of such person or persons,
 6 and of his, her or their assignee or assignees, and so
 7 as absolutely to transfer and vest the property therein,
 8 in each and every assignee or assignees successively,
 9 and to enable such assignee, or assignees to bring and
 10 maintain an action thereupon in his, her or their name
 11 or names: and bills or notes which may be issued
 12 by order of the said corporation, signed by the Presi-
 13 pent and countersigned by the cashier, promising the
 14 payment of money to any person or persons, his,
 15 her or their order, or to bearer, though not under
 16 the seal of said corporation, shall be binding and obliga-
 17 tory on the same, in the like manner, and with the like
 18 force and effect, as upon any private person or persons,
 19 his, her or their order; shall be assignable by endorse-
 20 ment, in like manner, and with like effect, as foreign
 21 bills of exchange now are; and those which are payable
 22 to bearer shall be negotiable and assignable by delivery
 23 only.

X. *Be it further enacted*, That no note shall be issued
 2 by said bank, under the denomination of three dollars,
 3 and that if any person or persons, holding any note or
 4 notes of said bank, shall present the same for payment,
 5 and payment shall be refused, the said note or notes,
 6 shall draw interest at the rate of *twelve per cent. per*
 7 *annum*, from the time of said demand, and the said bank
 8 shall pay the same, any law to the contrary notwith-

9 standing ; and the holder of said note or notes of said
 10 bank, not paid on demand, may bring an action of as-
 11 sumpsit against any one or all of the directors, who
 12 may have consented to issue more than twice the capi-
 13 tal stock paid in, in case the bank be unable to pay the
 14 amount: *Provided always*, that if any note or notes of
 15 the said bank, shall be presented by or for any bank, or
 16 branch or agency of any bank, either directly or indirectly,
 17 it shall be lawful to pay the same or any part thereof,
 18 with the note or notes of the bank, by or for which the
 19 demand shall have been made, whether made at the in-
 20 stance of the principal bank, its branch or agency,
 21 without regard to the place where the same may have
 22 been issued or may be payable ; and any person or per-
 23 sons, who may present the note or notes of the said
 24 bank for payment, shall, if required, state on oath, be-
 25 fore a Justice of the Peace, whether the demand was
 26 made for any bank, or branch, or agency of any bank,
 27 either directly or indirectly, or, in case of refusing, shall
 28 not be entitled to recover any interest whatever on
 29 any note of said bank, for which payment may be
 30 refused.

XI. *Be it further enacted*, That the directors of said
 2 bank, may declare semi-annual dividends of the profits
 3 thereof, provided that no dividend shall be declared,
 4 until the whole amount of stock subscribed shall be
 5 paid in gold or silver, or their equivalent ; and if, at any
 6 time, more than the real profits are divided, the direc-
 7 tors thereto assenting, shall be responsible, in their pri-
 8 vate capacities, to creditors who have claims against the
 9 said institution.

XII *Be it further enacted*, That in case of any insol-
 2 vency of the bank hereby created, or ultimate inability
 3 to pay, the individual stockholders shall be liable to
 4 creditors, in sums double the amount of stock by them,
 5 respectively, held in said corporation.

XIII. *Be it further enacted*, That the officer at the head
 2 of the treasury of the State, shall be furnished once in
 3 six months, with a statement of the amount of the cap-
 4 ital stock of said corporation, and the debts due the
 5 same; of the moneys deposited therein; of the notes in
 6 circulation; and of the cash on hand; and shall have a
 7 right to inspect such general accounts, in the books of
 8 the bank, as shall relate to said statement: *Provided*,
 9 that this shall not be construed to a right of inspecting
 10 the accounts of any private individual with the bank,
 11 except the directors. And, it shall be the duty of the
 12 President of the bank, in the first week in December,
 13 in each and every year, to transmit to the General As-
 14 sembly, a full statement of the condition of the bank,
 15 exhibiting the amount of capital, notes in circulation,
 16 debts due to other banks, and to what banks, deposits,
 17 and all other particulars necessary to explain the debit
 18 side of the account; also, the specie on hand, notes on
 19 other banks, and what banks, bills of exchange, debts
 20 or bonds, and notes discounted, specifying in one item
 21 the amount due from stockholders, and in another the
 22 amount due from directors; not, however, using any
 23 person's name in either case; and the real estate.

XIV. *Be it further enacted*, That, if any person shall
 2 falsely make, forge, or counterfeit, or cause or procure
 3 to be falsely made, forged or counterfeited, or willingly
 4 aid or assist in falsely making, forging, or counterfeit-
 5 ing any bill or note in imitation of, or purporting to be,
 6 a bill or note issued by order of the President and Di-
 7 rectors of the Bank of Charlotte, or any order or check
 8 upon said bank or corporation, or the cashier thereof;
 9 or shall falsely alter, or cause or procure to be falsely
 10 altered, or willingly aid or assist in falsely altering, any
 11 bill or note issued by order of the said corporation, or
 12 any order or check on said bank, or the cashier there-
 13 of; or shall pass, or receive with intent to pass, utter,

14 or publish as true, any false, forged, or counterfeited
 15 bill or note, purporting to be a bill or note issued by
 16 order of said corporation; or any false, forged, or coun-
 17 terfeited check or order upon the said bank, or the cash-
 18 ier thereof, knowing the same to be falsely forged or
 19 counterfeited; or shall pass or receive with intent to
 20 pass off, or publish as true, any falsely altered check or
 21 order on said bank, or the cashier thereof, or falsely al-
 22 tered bill or note issued by order of said bank, knowing
 23 the same to be falsely altered, with intent to defraud the
 24 said corporation, or any other body politic, or person
 25 or persons; every such person shall be deemed guilty
 26 of felony, and, being thereof convicted by due course
 27 of law, shall be imprisoned not exceeding ten years,
 28 and fined not exceeding five thousand dollars.

XV. *Be it further enacted*, That the president or cash-
 2 ier of said bank shall annually pay into the treasury of
 3 the State twelve and a half cents on each share of said
 4 capital stock which may have been subscribed for and
 5 paid in; and the first payment of said tax shall be made
 6 twelve months after said bank shall have commenced
 7 operations.

XVI. *Be it further enacted*, That if any president, cashier,
 2 clerk, or other officer of the aforesaid bank, shall know-
 3 ingly, willingly, and with intent to deceive, make or
 4 cause to be made, or connive at making, any false re-
 5 turn, statement, or exhibit of the condition of the bank,
 6 either to the treasurer of the State, to the General As-
 7 sembly, or the board of directors of the bank, or to the
 8 stockholders, or to any other person or persons that may
 9 be authorized by the General Assembly, or by the
 10 stockholders to receive the same, such president, di-
 11 rector, cashier, clerk, or other officer, and all persons
 12 aiding or abetting in such deception or false return,
 13 shall be liable to be indicted for a misdemeanor in the

14 Superior Courts, and, upon conviction, shall be fined
 15 at the discretion of the court, and imprisoned not ex-
 16 ceeding one year.

XVII. *Be it further enacted*, That if a director or any
 2 other officer agent or servant of said corporation, shall
 3 embezzle any of the funds belonging to said bank, with
 4 intent to defraud said corporation, or make false entries
 5 upon the books of said bank, with intent to defraud
 6 said corporation, or any other person whatsoever: said
 7 officer, agent or servant shall be held and deemed
 8 guilty of felony, and upon conviction thereof, by due
 9 course of law, shall be punished by fine, at the discre-
 10 tion of the Court, and imprisoned not exceeding five
 11 years.

XVIII. *Be it further enacted*, That, whenever the
 2 General Assembly may be of opinion that the charter
 3 of the corporation hereby granted shall have been vio-
 4 lated, it may be lawful, by joint resolution, to direct
 5 the Attorney General, with such assistant counsel as
 6 the Governor or General Assembly may think proper
 7 to engage, to issue a writ of *scire facias*, returnable
 8 before the Judges of the Supreme Court, calling upon
 9 said corporation to show cause why the charter hereby
 10 granted shall not be forfeited, subject to the same pro-
 11 ceedings as are now prescribed by law, in cases of
 12 other corporations.

XIX. *Be it further enacted*, That the cashier shall keep
 2 a book to contain the proceedings of the Board of Di-
 3 rectors, the names of those present, the day and date
 4 of each meeting, and shall record the yeas and nays, on
 5 any question, when asked for by any director. This
 6 book shall be evidence in Courts of Justice, and on en-
 7 tering on the discharge of his duties, the cashier shall
 8 take the following oath before some Justice of the

9 Peace, by whom it shall be returned to the office of the
 10 clerk of the County Court: "I, A. B., do solemnly
 11 swear to keep a just and true record, without alterations
 12 or erasures, of the transactions of the Board of Direc-
 13 tors of the Bank of Charlotte, in a book to be by him
 14 kept for that purpose.

XX. *Be it further enacted*, That this act shall be in
 2 force from and after its ratification.

[Introduced by Mr. WOODFIN —Read the first time and passed. Ordered to be printed, and referred to the Committee on Internal Improvements.]

A BILL

To incorporate the North Carolina and Western Railroad Company.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That, for the purpose of effecting a railroad communication between, the North Carolina Railroad, now being built, and the valley of the Mississippi, the formation of a corporate company, with a capital stock of three millions of dollars, is hereby authorised, to be called the North Carolina and Western Railroad Company; and, when formed in compliance with the conditions hereinafter prescribed, to have a corporate existence as a body politic for the term of ninety-nine years.

II. *Be it further enacted*, That the said company be, and the same is hereby authorised to construct a railroad from any point on the North Carolina railroad that they may choose, to any point on the Tennessee State line, or to any point on the Little Tennessee River in Macon county, that they may determine on, after the organization of the company, and a survey under their direction.

III. *Be it further enacted*, That, for the purpose of creating the capital stock of said company, the following persons be, and the same are hereby, appointed commis-

4 sioners, namely: Hamilton C. Jones of Salisbury, Jas.
 5 W. Osborn, of Charlotte, of States-
 6 ville, of Newton, Tod R. Caldwell
 7 of Morganton, Elisha P. Miller of Caldwell, William H.
 8 Miller of Rutherford, Haywood W. Guion of Lincolnton,
 9 William McCarson of Marion, David B. Miller of Hen-
 10 dersonville, James W. Patton of Asheville, A. E. Bain
 11 of Madison, J. W. McElroy of Burnsville, William John-
 12 ston of Waynesville, and Joab L. Moore of Franklin, in
 13 Macon county. That it shall be lawful to open books
 14 in the town of Salisbury under the direction of Burton
 15 Craig, Hamilton C. Jones, George W. Brower, Horace
 16 L. Robards, Nathaniel Boyden, and Hon. D. F. Cald-
 17 well, or any three of them. At Charlotte under the di-
 18 rection of Joseph H. Wilson, James W. Osborn, N.
 19 Hutchinson, John Irwin, Bailey Oats, and Green W.
 20 Caldwell, or any three of them. At Statesville under
 21 the direction of Andrew Allison, George F. Davidson,
 22 Robt. Cowan, Walter P. Caldwell, Dr. Parks, Samuel R.
 23 Bell, J. W. Stockton and J. K. Nesbit, or any three of
 24 them. In the town of Newton under the direction of
 25 Jonas Borst, Lock McCocle, Cline, Wilkey
 26 Henry Robeson, or any three of them. In the town of
 27 Lincolnton under the direction of H. W. Guion, John
 28 F. Hoke, Taylor Alexander, Benjamin Johnston, Leo-
 29 nard Thompson, Jacob Ramsour, C. C. Henderson, L.
 30 D. Chiles and James A. Caldwell or any three of them.
 31 In Rutherfordton under the direction of William M.
 32 Shipp, Gen. Edmud Bryan, William H. Miller, H. D.
 33 Carrier, Wilkins, J. G. Bynum, James M. Webb, Dr.
 34 John Crayton, Dr. J. C. Calloway, and Dr. John Mc-
 35 Entire, or any three of them. In the town of Boon
 36 under the direction of Jordan Counsel, Jonathan Hor-
 37 ton, Reuben Mast, and John Morris or any three of them.
 38 In the town of Morganton under the direction of I. T.
 36 Avery, James C. Smith, Robert C. Pearson, Thomas
 40 Walton, William F. McKesson, T. R. Caldwell, W.

41 C. Erwin and Dr. W. McRea, or any three of them. In
 42 the town of Lenoir, under the direction of James Har-
 43 per, sen., L. M. Tuttle, Walter Lenoir, William B.
 44 Dola, Samuel F. Patterson and Cornelius Clark, or any
 45 three of them. In the town of Marion under the direc-
 46 tion of W. L. Gill, A. Higgins, Jason H. Whitson, Alna
 47 Burgin, William M. Carson, C. P. Davis and Dr. S. A.
 48 Erwin or any three of them. In the town of Shelby
 49 under the direction of
 50 or any three of them. In the
 51 town of Asheville under the direction of John Reynolds,
 52 James M. Smith, B. J. Smith, M. Patton, W. D. Ran-
 53 kin, A. B. Chunn, J. W. Patton, William Williams, A.
 54 T. Summey, J. W. Woodfin, James M. Edney, Hugh
 55 Johnston, J. B. Sawyer, Augustus S. Merriman and
 56 Daniel Reynolds, or any three or more of them. In the
 57 town of Hendersonville under the direction of David
 58 B. Miller, Joseph Dunlap, Benjamin Posey, James Brit-
 59 tain, William Bryson, Dr. Whither, Andrew Miller,
 60 John Baxter and M. Patton, or any three of them. In
 61 the town of Burnsville under the direction of M. P.
 62 Pendham, J. W. McElroy, Joseph Sheppard, J. W.
 63 Garland and John Stradley, or any three of them. In
 64 Madison at Smith's and Baird's under the direction of
 65 A. E. Baird, John Peck, David Farnsworth, Hezekiah
 66 Bernard, Job Ramsey, and J. J. Gudger, or any three of
 67 them. In Waynesville under the direction of W.
 68 Welch, W. Johnson, Samuel Fitzgerald, E. B. Herren,
 69 John S. Smith, and A. T. Murray, or any three of them.
 70 In the town of Franklin under the direction of Jesse R.
 71 Tiler, Joab F. Moore, Dr. H. G. Woodfin, D. R. Low-
 72 ery, Stephen Munday and N. G. Alman or any three
 73 of them. Whose duty it shall be to direct the opening
 74 of books for subscription of stock, at such times and
 75 places, and under the direction of such persons, as they
 76 or a majority of them may deem proper, and the said
 77 commissioners shall have power to appoint a chairman

78 of their body, treasurer, and all other officers, and to
 79 sue for, and recover all sums of money that ought, un-
 80 der this act, to be received by them.

IV. *Be it further enacted*, That all persons who are,
 2 or may hereafter be authorized to open books for sub-
 3 scription of stock by the commissioners herein appoint-
 4 ed for that purpose, shall open said books at any time
 5 after the ratification of this act, twenty days' previous
 6 notice being given in some one or more of the public
 7 newspapers in this State; and that the said books,
 8 when opened, shall be kept open for the space of thirty
 9 days at least, and as long thereafter as the commissioners
 10 first above named shall direct; and that all subscription of
 11 stock shall be in shares of one hundred dollars, the sub-
 12 scriber paying, at the time of making such subscription,
 13 the sum of five dollars on each share thus subscribed,
 14 to the person or persons authorized to receive such sub-
 15 scription; and, in case of failure to pay said sum, all
 16 such subscriptions shall be void, if the commissioners
 17 choose to declare it, or they may direct it to be recovered
 18 by suit or otherwise; and, upon closing the books, all
 19 such sums as shall have been thus received of subscribers,
 20 on the first cash instalment, shall be paid over to the
 21 general commissioners herein before named by the per-
 22 sons receiving them; and for failure thereof, such person
 23 or persons shall be personally liable to said general com-
 24 missioners before the organization of said company, and
 25 to the company itself after its organization, to be recov-
 26 ered in the Superior Court of law within this State, in
 27 the county where such delinquent resides, or, if he reside
 28 in any other State, then in any court in such State hav-
 29 ing competent jurisdiction. Then the said general com-
 30 missioners shall have power to call on, and require, all
 31 persons empowered to receive subscriptions of stock, at
 32 any time, and from time to time, as a majority of them
 33 may think proper, to make a return of the stock by them
 34 respectively received, and to make payments of all sums

35 made by the subscribers ; that all persons receiving sub-
 36 scriptions of stock shall pass a receipt to the subscriber
 37 or subscribers for the payment of the first instalment,
 38 as heretofore required to be paid ; and, upon their settle-
 39 ment with said general commissioners as aforesaid, it shall
 40 be the duty of the said general commissioners, in like
 41 manner, to pass their receipt for all sums thus received,
 42 to the person from whom received, and such receipts shall
 43 be taken and held to be good and sufficient vouchers for
 44 the persons holding the same.

V. *Be it further enacted*, That it shall be the duty of said
 2 general commissioners to direct and authorise the keep-
 3 ing open of books for the subscription of stock in the
 4 manner above described, until the sum of one million of
 5 dollars shall have been subscribed to the capital stock of
 6 said company ; and as soon as the sum of one million
 7 of dollars shall have been subscribed, and the first in-
 8 stalment of five dollars per share on said stock shall have
 9 been received by the general commissioners, said com-
 10 pany shall be regarded as formed ; and the said com-
 11 missioners or a majority of them, shall sign and seal
 12 a duplicate declaration to that effect, with the names
 13 of the subscribers appended, and cause one of the said
 14 duplicates to be deposited in the office of the Secretary
 15 of State ; and thenceforth, from the closing of the books
 16 of subscription as aforesaid, the said subscribers to the
 17 stock shall form one body politic and corporate, in deed
 18 and in law, by the name and style of the North Caro-
 19 lina and Western Railroad Company.

VI. *Be it further enacted*, That, whenever the sum
 2 of one million of dollars shall be subscribed, in manner
 3 aforesaid, the subscribers, their executors, administrators
 4 and assigns, shall be, and they are hereby declared to
 5 be, incorporated into a company by the name and style of
 6 " the North Carolina and Western Railroad Company ;

7 and by that name shall be capable, in law and equity, of
 8 purchasing, holding, leasing and conveying estates, real,
 9 personal and mixed, and of acquiring the same by gift
 10 or devise, so far as shall be necessary for the purposes
 11 embraced within the scope, object and intent of this char-
 12 ter, and no further; and shall have perpetual succession;
 13 and by their corporate name may sue and be sued, plead
 14 and be impleaded in any court of law and equity in the
 15 State of North Carolina; and may have and use a com-
 16 mon seal, which they may alter and renew at pleasure;
 17 and may have and enjoy all other rights and immuni-
 18 ties which other corporate bodies may and of right do
 19 exercise; and may make all such by-laws, rules and
 20 regulations as are necessary for the government of the
 21 corporation, or effecting the object for which it is cre-
 22 ated, not inconsistent with the constitution and laws of
 23 the United States or of the State of North Carolina.

VII. *Be it further enacted,* That notice of process upon
 2 the principal agents of said company, or the president or
 3 directors, or any of them, shall be deemed and taken to
 4 be due and lawful notice of service of such process
 5 upon the company, so as to bring it before any Court
 6 within the State of North Carolina.

VIII. *Be it further enacted,* That, as soon as the sum of
 2 one million of dollars shall have been subscribed, in
 3 manner aforesaid, it shall be the duty of the general
 4 commissioners, appointed herein, to appoint a time for
 5 the stockholders to meet at Asheville, which they shall
 6 cause to be previously published, for the space of thirty
 7 days, in one or more newspapers, as they may deem pro-
 8 per; at which time and place, the said stockholders, in
 9 person or proxy, shall proceed to elect twelve directors
 10 of the company, and to enact all such by-laws, rules
 11 and regulations, as may be necessary for the govern-
 12 ment of the corporation and the transaction of its busi-
 13 ness. The persons elected directors at this meeting,

14 shall serve such a period as the stockholders may di-
 15 rect; and at this meeting, the stockholders shall fix on
 16 the place or places, where the subsequent election of di-
 17 rectors shall be held; and such elections shall thereafter
 18 be annually made; but, if the day of the annual
 19 election should pass without any election of directors,
 20 the corporation shall not thereby be dissolved, but it
 21 shall be lawful on any other day to hold and make such
 22 election in such manner as may be prescribed by the
 23 rules or by-laws of the corporation.

IX. *Be it further enacted*, That the affairs of the com-
 2 pany shall be managed and directed by a general board,
 3 to consist of twelve directors, to be elected by the stock-
 4 holders from among their number, at the first and
 5 subsequent general annual meetings, as prescribed in the
 6 eighth section of this act.

X. *Be it further enacted*, That the election of directors
 2 shall be by ballot, each stockholder having as many votes
 3 as he has shares in the stock of said company; and
 4 the person having a majority of all the votes polled,
 5 shall be considered as duly elected: *Provided*, That
 6 said company may fix any other scale of voting to go-
 7 vern all subsequent elections.

XI. *Be it further enacted*, That the president of the
 2 company shall be elected by the directors from among
 3 their own number, in such manner as the regulations
 4 of the company shall prescribe.

XII. *Be it further enacted*, That, at the first general
 2 meeting of the stockholders, directed to be called under
 3 section eighth of this act, a majority of all the shares
 4 subscribed shall be represented before proceeding to
 5 business; and, if a sufficient number do not appear on
 6 the day appointed, those who do attend shall have

7 power to adjourn from time to time, until a regular
 8 meeting shall be thus formed; and at such meeting
 9 the stockholders may provide by a by-law, as to the
 10 number of stockholders and the amount of stock to be
 11 held by them, which shall constitute a quorum for the
 12 transaction of business at all subsequent regular or occa-
 13 sional meetings of stockholders and directors.

XIII. *Be it further enacted*, That at all elections, and
 2 upon all votes taken, in any general meeting of the
 3 stockholders, upon any by law or any of the affairs of
 4 said company, each share of stock shall be entitled to
 5 one vote, and that any stockholder in said company
 6 may vote by proxy; and proxies may be verified in such
 7 manner as the stockholders by law may prescribe.

XIV. *Be it further enacted*, That the general com-
 2 missioners shall make their return of the shares of stock
 3 subscribed for, at the first general meeting of stock-
 4 holders, and pay over to the directors elected at said
 5 meeting, or their authorized agent, all sums of money
 6 received from subscribers; and, for failure thereof, shall
 7 be liable to said company, to be recovered at the suit of
 8 said company, in any of the Superior Courts of law in
 9 this State, within the county where such delinquent or
 10 delinquents may reside, and in like manner from said
 11 delinquent or delinquents' executors or administrators,
 12 in case of his or her death.

XV. *Be it further enacted*, That the board of directors
 2 may fill all vacancies which may occur in it during the
 3 period for which they have been elected, and, in the ab-
 4 sence of the president, may appoint one *pro tempore*,
 5 from among their number.

XVI. *Be it further enacted*, That all contracts or agree-
 2 ments, authenticated by the president and secretary of

3 the board of directors, shall be binding on the company
 4 without a seal, or such a mode of authentication may be
 5 used as the company, by their by-laws, may adopt.

XVII. *Be it further enacted,* That the company shall
 2 have power and may proceed to construct, as speedily
 3 as possible, a railroad with one or more tracks, to be
 4 used with steam power, which may be extended from
 5 such point on the North Carolina railroad, as the
 6 company hereby incorporated shall fix upon, to such
 7 point on the Tennessee State line, or Tennessee river,
 8 in Macon county, as the said company shall determine;
 9 and said company may use any section or part of said
 10 road, made by them, before the whole of said road is
 11 completed.

XVIII. *Be it further enacted,* That the said company
 2 shall have the exclusive right of conveyance or transpor-
 3 tation of persons, goods, merchandise and produce over
 4 the said railroad, to be by them constructed, at such
 5 charges as may be fixed on by a majority of said com-
 6 pany.

XIX. *Be it further enacted,* That the said company may,
 2 when they see fit, farm out their right of transportation
 3 over said railroad, subject to the rules above mentioned ;
 4 and the said company, and every one who may have re-
 5 ceived from them the right of transportation of goods,
 6 wares and merchandise over the said railroad, shall be
 7 deemed and taken to be a common carrier, as respects
 8 all goods, wares, produce and merchandise entrusted to
 9 them for transportation.

2 ~~may~~ X. *Be it further enacted,* That the board of directors
 3 ~~road~~ call for the payment of the sums subscribed as
 4 *Provided*, in said company, in such instalments as the in-
 5 ~~public re~~ of said company may, in their opinion, require ;
 6 ~~convenient~~

5 the call for each payment shall be published in one or
 6 more newspapers published in this State, for at least
 7 one month before the day of payment; and, on
 8 failure of any stockholder to pay each instalment, as
 9 thus required, the directors may sell, at public auction,
 10 on a previous notice of ten days, for cash, all the stock
 11 subscribed for in said company, by such stockholder,
 12 and convey the same to the purchaser at said sale; and
 13 if the said sale of stock do not produce a sum sufficient
 14 to pay off the incidental expenses of said sale, and the
 15 entire amount, due to said company, for such subscrip-
 16 tion of stock, then, and in that case, the whole of such
 17 balance shall be held as due at once to said company,
 18 and may be recovered of such stockholder or his ex-
 19 ecutors, administrators or assigns, at the suit of said
 20 company, either by summary motion in any Court of Su-
 21 perior jurisdiction in the county where the delinquent
 22 resides, on a previous notice of ten days to such delin-
 23 quent subscriber, or by action of assumpsit in any
 24 Court of competent jurisdiction, or by a warrant before
 25 a Justice of the Peace, when the sum does not exceed
 26 one hundred dollars; and in case of the assignment of
 27 stock, before the whole amount has been paid to the
 28 company, then for all sums due on such stock, both the
 29 original subscribers, and the first and all subsequent
 30 assignees, shall be liable to the company, and the same
 31 may be recovered as above described.

XXI. *Be it further enacted*, That the debt_s of stockhol-
 2 ders, due to the company for stock therein, either as
 3 original proprietor, or as first or subsequent assignee,
 4 shall be considered as of equal dignity with judgments
 5 in the distribution of assets of a deceased stockholder,
 6 by his personal representatives.

XXII. *Be it further enacted*, That said company agree-
 2 issue certificates of stock to its members; and secretary of
 3 may be transferred in such manner and form
 4 directed by the by-laws of the company.

XXIII. *Be it further enacted*, That the said company
 2 may at any time, increase its capital to a sum sufficient
 3 to complete said road, not exceeding one million of dol-
 4 lars, by opening books for the subscription of stock, or
 5 by selling such new stock, or by borrowing money on
 6 the credit of the company, and on the mortgage of its
 7 charter and works, and the manner in which the same
 8 shall be done, in either case, shall be prescribed by the
 9 stockholders in a general meeting.

XXIV. *Be it further enacted*, That the board of direc-
 2 tors shall, once in every year at least, make a full report
 3 on the state of the company and its affairs to a general
 4 meeting of the stockholders, and oftener if required by
 5 a by-law; and shall have power to call a general meet-
 6 ing of the stockholders, when the board may deem it
 7 expedient; and the company may provide, by their by-
 8 laws, for occasional meetings being called, and prescribe
 9 the mode thereof.

XXV. *Be it further enacted*, That the said company
 2 may purchase, have and hold, in fee, or for a term of
 3 years, any lands, tenements, or hereditaments which may
 4 be necessary for the said road, or the appurtenances
 5 thereof, or for the erection of depositories, store houses,
 6 houses for the officers, servants or agents of the com-
 7 pany, or for workshops or foundries, to be used for the
 8 said company, or for procuring stone or other materials
 9 necessary for said company in the construction or re-
 10 pairs of the road, or for effecting transportation thereon,
 11 and for no other purposes.

XXVI. *Be it further enacted*, That the company shall
 2 have the right, when necessary, to construct the said
 3 road across or along any public road or water course;
 4 *Provided*, That said company shall not obstruct any
 5 public road, without constructing another equally as
 6 convenient and good.

XXVII. *Be it further enacted*, That when any lands or
 2 right of way may be required by said company for the
 3 purpose of constructing their road, and for the want of
 4 agreement as to the value thereof, or from any other
 5 cause, the same cannot be purchased from the owner or
 6 owners, the same may be taken at a valuation to be
 7 made by five commissioners, or a majority of them, to
 8 be appointed by any Court of record having common
 9 law jurisdiction in the county where some part of the
 10 land or right of way is situated. In making the said
 11 valuation, the said commissioners shall take into con-
 12 sideration the loss or damage which may accrue to the
 13 owner or owners in consequence of the land or right of
 14 way being surrendered, and the benefit and advantage he,
 15 she or they may receive from the erection or establish-
 16 ment of the railroad or work, and shall state particularly
 17 the value and amount of each; and the excess of loss and
 18 damage, over and above the advantage and benefit, shall
 19 form the measure of valuation or right of way; *Provided*,
 20 Nevertheless, that if any person or persons over whose
 21 land the road may pass shall be dissatisfied with the
 22 valuation of said commissioners, then, and in that case,
 23 the person or persons so dissatisfied may have an appeal
 24 to the Superior Court, in the county where the said valua-
 25 tion has been made, or in either county in which the land
 26 lies, when it may lie in more than one county, under
 27 the same rules, regulations and restrictions as in appeals
 28 from judgments of Justices of the Peace. The proceed-
 29 ings of the said commissioners, accompanied with a full
 30 description of said land or right of way, shall be returned,
 31 under the hands and seals of a majority of the commis-
 32 sioners to the Court from which the same issued,
 33 there to remain a matter of record. And the lands or
 34 right of way so valued by the said commissioners, shall
 35 vest in said company so long as the same shall be used
 36 for the purposes of said railroad, so soon as the valua-
 37 tion may be paid, or when refused, may have been ten-

38 dered ; *Provided*, That, on application for the appoint-
 39 ment of commissioners, under this section, it shall be
 40 made to appear to the satisfaction of the Court, that at
 41 least ten days previous notice has been given by the
 42 applicant to the owner or owners of land so proposed to
 43 be condemned, or if the owner or owners be infants or
 44 *non compos mentis*, then to the guardian of such owner
 45 or owners, if such guardian can be found within the
 46 county, or if he cannot be so found, then such appoint-
 47 ment shall not be made unless notice of the application
 48 shall have been published at least one month next pre-
 49 ceding, in some newspaper printed as convenient as may
 50 be to the Court House of the county, and shall have
 51 been posted at the door of the Court House, on the first
 52 day at least of the term of said Court, to which the ap-
 53 plication is made ; *Provided further*, That the valua-
 54 tion provided for in this section shall be made on oath
 55 by the commissioners aforesaid, which oath any Justice
 56 of the Peace or Clerk of the Court of the county in
 57 which the land or a part of it lies, is hereby authorized
 58 to administer ; *Provided further*, That the right of con-
 59 demnation hereby granted shall not authorise the said
 60 company to invade the dwelling house, yard, garden or
 61 burial ground of an individual without his consent.

XXVIII. *Be it further enacted*, That the right of said
 2 company to condemn in the manner described in the
 3 27th section of this act, shall extend to the condemn-
 4 ing one hundred feet on each side of the main track of
 5 the road, measuring from the centre of the same, unless
 6 in case of deep cuts and filling, when the said company
 7 shall have power to condemn as much in addition
 8 thereto, as may be necessary for the purpose of con-
 9 structing said road ; and the company shall also have
 10 power to condemn any appropriate lands in like manner,
 11 for the constructing and building of depots, shops, ware-
 12 houses, buildings for servants, agents and persons em-

13 played on the road, not exceeding two acres in any one
14 lot or station.

XXIX. *Be it further enacted,* That, in the absence of
2 any contract or contracts with said company, in rela-
3 tion to lands through which the said road or its branches
4 may pass, signed by the owner thereof, or by his agent,
5 or any claimant or person in possession thereof, which
6 may be confirmed by the owner thereof, it shall be pre-
7 sumed that the land upon which the said road or any of
8 its branches may be constructed, together with one hun-
9 dred feet on each side of the centre of the said road,
10 has been granted to the said company, by the owner or
11 owners thereof; and the said company shall have good
12 right and title thereto, and shall hold and enjoy the
13 same as long as the same shall be used for the purposes
14 of said road and no longer, unless the person or persons
15 owning the said land at the time that part of the said
16 road which may be on the said land, was finished; or
17 those claiming under him, her or them, shall apply for
18 an assessment of the value of said lands, as hereinbefore
19 directed, within two years next after that part of the said
20 road, which may be on the said land, was finished:
21 and in case the said owner or owners or those claim-
22 ing under him, her or them, shall not apply within
23 two years next after the said part was finished,
24 he, she or they shall be forever barred from recovering
25 said land, or having any assessment or compensation
26 therefor: *Provided,* That nothing herein contained shall
27 affect the rights of *feme coverts* or infants, until two
28 years after the removal of their respective disabilities.

XXX. *Be it further enacted,* That all lands not hereto-
2 fore granted to any person, nor appropriated by law to
3 the use of the State, within one hundred feet of the
4 centre of the road, which may be constructed by the
5 said company, shall vest in the company as soon as the
6 line of the road is definitely laid out through it, and
7 any grant of land thereafter shall be void.

XXXI. *Be it further enacted,* That if any person or
 2 persons shall intrude upon the said railroad by any
 3 manner of use thereof, of the rights and privileges con-
 4 nected therewith, without permission or contrary to
 5 the will of the said company, he, she or they may be
 6 indicted for misdemeanor, and upon conviction may be
 7 fined and imprisoned by any Court of competent juris-
 8 diction in this State,

XXXII. *Be it further enacted,* That if any person shall
 2 wilfully and maliciously destroy, or in any manner hurt
 3 or damage, or obstruct, or shall wilfully and maliciously
 4 cause or aid, or assist or counsel, or advise any other
 5 person or persons to destroy, or in any manner to hurt,
 6 damage or destroy or injure or obstruct the said railroad,
 7 or any bridge or vehicle used for, or in transportation
 8 thereon, any water tank, warehouse, or any other prop-
 9 erty of said company, such person or persons so offending
 10 shall be liable to be indicted therefor, and on convic-
 11 tion, shall be imprisoned not more than six, nor less
 12 than one month, and pay a fine not exceeding five
 13 hundred dollars, nor less than twenty dollars, at the dis-
 14 cretion of the Court before which said conviction shall
 15 take place; and shall be further liable to pay all ex-
 16 penses of repairing the same; and it shall not be compe-
 17 tent for any person, so offending against the provisions
 18 of this clause, to defend himself by pleading or giving in
 19 evidence, that he was the owner, agent or servant of
 20 the land where such destruction, hurt, damage, injury,
 21 or obstruction was done, at the time the same was done
 22 or caused to be done.

XXXIII. *Be it further enacted,* That every obstruction
 2 to the safe and free passage of vehicles on the said road
 3 or its branches, shall be deemed a public nuisance, and
 4 may be abated as such by any officer, agent or servant
 5 of said company; and the person causing such ob-

6 struction may be indicted and punished for erecting a
7 public nuisance.

XXXIV. *Be it is further enacted*, That the said com-
2 pany shall have the right to take at the store houses,
3 erected by them on the said railroad, or connected
4 therewith, or on its branches, goods, wares, mer-
5 chandise and produce intended for transportation, pre-
6 scribe the rules of priority and charge, and receive such
7 just compensation for storage, as they by rules, may es-
8 tablish, (which they shall cause to be published) or as
9 may be fixed by agreement with the owner, which may
10 be distinct from the rates of transportation: *Provided*,
11 That the said company shall not charge or receive
12 storage on goods, wares, merchandise, or produce which
13 may be delivered to them at their regular deposito-
14 ries for immediate transportation, and which the said
15 company may have power to transport immediately.

XXXV. *Be it further enacted*, That the profits of the
2 company, or so much thereof as the general board may
3 deem advisable, shall, when the affairs of the company
4 will permit, be semi-annually divided among the stock-
5 holders in proportion to the stock each may own.

XXXVI. *Be it further enacted*, That, whenever it shall
2 appear to the board of internal improvements of this
3 State, by a certificate under the seal of said company,
4 signed by their treasurer and countersigned by their
5 president, that one-third has been subscribed for and ta-
6 ken, and that at least five hundred thousand dollars
7 has been paid to said treasurer in cash and in labor per-
8 formed on said road, and accepted by said company,
9 as payment on the stock subscribed, the said board of
10 internal improvements shall be, and they are hereby
11 authorized and required to subscribe, on behalf of the
12 State, for stock in said company to the amount of two

13 millions of dollars to the capital stock of said company,
 14 and the subscription shall be paid in the following man-
 15 ner, namely : The one-fourth part as soon as the said
 16 company shall commence work, and one-fourth thereof
 17 every six months thereafter, until the whole subscription
 18 on behalf of the State shall be paid in; *Provided*, the
 19 treasurer and president of said company shall, before
 20 they receive the aforesaid instalments, satisfactorily as-
 21 sure the board of internal improvements, by the certifi-
 22 cates, under the seal of said company, that an amount of
 23 private subscription has been paid in equal proportion to
 24 the stock subscribed by the State.

XXXVII. *Be it further enacted* That if, in case the pres-
 2 ent Legislature shall not provide the necessary and
 3 ample means to pay the aforesaid stock subscribed for on
 4 be half of the State, as provided for in the 36th section
 5 of this act, and in that event, the board of internal in-
 6 provements aforesaid, shall, and they are hereby autho-
 7 rised and empowered to borrow, on the credit of the
 8 State, a sum not exceeding two millions of dollars, as
 9 the same may be needed by the requirements of this act.

XXXVIII. *Be it further enacted* That, if, in case it
 2 shall be necessary to borrow the money by this act
 3 authorized, the public treasurer shall issue the necessa-
 4 ry certificates, signed by himself and countersigned by
 5 the comptroller, in sums not less than one thousand
 6 dollars each, pledging the State for the payment of the
 7 sum therein mentioned, with interest thereon at the
 8 rate of interest not exceeding six per cent. per annum,
 9 payable semi-annually at such times and places as the
 10 treasurer may appoint—the principal of which certifi-
 11 cates shall be redeemable at the end of thirty years
 12 from the time the same are issued; but no greater
 13 amount of such certificates shall be issued at any one
 14 time than may be sufficient to meet the instalments re-
 15 quired to be paid by the State at that time.

XXXIX. *Be it further enacted*, That the comptroller
 2 shall register the said certificates at large in a book to
 3 be by him kept for the purpose, at the time he counter-
 4 signs the same ; and when he delivers the same to the
 5 public Treasurer, he shall charge him in his books with
 6 the amount thereof, and also with all such sums, if any,
 7 as the public Treasurer may obtain by way of premium
 8 on the sale of said certificates, an account of which
 9 the public Treasurer shall render to the Comptroller
 10 so soon as negotiations from time to time for the sale
 11 of said certificates are closed.

XL. *Be it further enacted*, That if it shall become ne-
 2 cessary to issue the certificates aforesaid, the public
 3 Treasurer shall advertise in one or more newspapers,
 4 as he may think best, and invite sealed proposals for
 5 such amount of the aforesaid sum of two millions of dol-
 6 lars as may be wanted at any one time ; and it shall
 7 be his duty to accept those terms which may be most
 8 advantageous to the State ; *Provided*, That in no
 9 event shall any of the said certificates be sold for less
 10 than their par value ; and any premium which may be
 11 obtained on the sale of said certificates shall be placed
 12 in the public Treasury, and used as other public funds
 13 in the payment of interest on the debt hereby created.

XLI. *Be it further enacted*, That, as security for the re-
 2 demption of said certificates of debt, the public faith of
 3 the State of North Carolina is hereby pledged to the
 4 holders thereof, and in addition thereto, all the stock
 5 held by the State in "the North Carolina and Western
 6 Railroad Company," hereby created, shall be, and the
 7 same is hereby, pledged for that purpose ; and any divi-
 8 dends of profit which may, from time to time, be declared
 9 on the stock held by the State, as aforesaid, shall be
 10 applied to the payment of the interest accruing on said
 11 certificates ; but until such dividend of profit may be

12 declared, it shall be the duty of the Treasurer, and he is
 13 hereby authorized and directed to pay all such interest,
 14 as the same may accrue, out of any moneys in the treas-
 15 ury not otherwise appropriated.

XLII. *Be it further enacted,* That the certificates of debt
 2 hereby authorized to be issued, shall be transferable by
 3 the holders thereof, their agents or attorneys, properly
 4 constituted, in a book to be kept by the Public Treasur-
 5 er for that purpose; and in every instance when a trans-
 6 fer is made, the outstanding certificate shall be surren-
 7 dered and given up to the Public Treasurer, and by him
 8 cancelled, and a new one for the amount issued in its
 9 place, to the person to whom the same is transferred.

XLIII. *Be it further enacted,* That the State shall appoint
 2 a number of Directors in said company in proportion to
 3 the stock subscribed, who shall be appointed by the Gov-
 4 ernor, by and with the advice and consent of the council
 5 of State, and removed in like manner.

XLIV. *Be it further enacted* That the following offi-
 2 cers and servants and persons in the actual employment
 3 of the said company, be, and they are hereby exempted
 4 from the performance of jury and ordinary military
 5 duty: The president and treasurer of the board of
 6 directors, and the chief and assistant engineers, the secre-
 7 taries and accountants of the company, keepers of the
 8 depositories, guard stationed on the road to protect it
 9 from injury, and such persons as may be working the
 10 locomotive engines and travelling with cars for the pur-
 11 pose of attending to the transporting of produce, goods
 12 and passengers on the road.

A BILL

To amend the act entitled "An act to provide for the establishment of a National Academy of Sciences, and for other purposes," approved July 27, 1905, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following provisions shall be in full:

SECTION 1. That the National Academy of Sciences be and it is hereby established, and it is hereby authorized to do all such acts and things as may be necessary to carry out the purposes of the act approved July 27, 1905, and for other purposes.

SECTION 2. That the members of the National Academy of Sciences shall be elected by the members of the Academy, and shall hold office for a term of five years, and shall be eligible for re-election.

SECTION 3. That the members of the National Academy of Sciences shall be elected by the members of the Academy, and shall hold office for a term of five years, and shall be eligible for re-election.

SECTION 4. That the members of the National Academy of Sciences shall be elected by the members of the Academy, and shall hold office for a term of five years, and shall be eligible for re-election.

SECTION 5. That the members of the National Academy of Sciences shall be elected by the members of the Academy, and shall hold office for a term of five years, and shall be eligible for re-election.

SECTION 6. That the members of the National Academy of Sciences shall be elected by the members of the Academy, and shall hold office for a term of five years, and shall be eligible for re-election.

SECTION 7. That the members of the National Academy of Sciences shall be elected by the members of the Academy, and shall hold office for a term of five years, and shall be eligible for re-election.

SECTION 8. That the members of the National Academy of Sciences shall be elected by the members of the Academy, and shall hold office for a term of five years, and shall be eligible for re-election.

SECTION 9. That the members of the National Academy of Sciences shall be elected by the members of the Academy, and shall hold office for a term of five years, and shall be eligible for re-election.

SECTION 10. That the members of the National Academy of Sciences shall be elected by the members of the Academy, and shall hold office for a term of five years, and shall be eligible for re-election.

SECTION 11. That the members of the National Academy of Sciences shall be elected by the members of the Academy, and shall hold office for a term of five years, and shall be eligible for re-election.

SECTION 12. That the members of the National Academy of Sciences shall be elected by the members of the Academy, and shall hold office for a term of five years, and shall be eligible for re-election.

SECTION 13. That the members of the National Academy of Sciences shall be elected by the members of the Academy, and shall hold office for a term of five years, and shall be eligible for re-election.

SECTION 14. That the members of the National Academy of Sciences shall be elected by the members of the Academy, and shall hold office for a term of five years, and shall be eligible for re-election.

SECTION 15. That the members of the National Academy of Sciences shall be elected by the members of the Academy, and shall hold office for a term of five years, and shall be eligible for re-election.

SECTION 16. That the members of the National Academy of Sciences shall be elected by the members of the Academy, and shall hold office for a term of five years, and shall be eligible for re-election.

SECTION 17. That the members of the National Academy of Sciences shall be elected by the members of the Academy, and shall hold office for a term of five years, and shall be eligible for re-election.

SECTION 18. That the members of the National Academy of Sciences shall be elected by the members of the Academy, and shall hold office for a term of five years, and shall be eligible for re-election.

SECTION 19. That the members of the National Academy of Sciences shall be elected by the members of the Academy, and shall hold office for a term of five years, and shall be eligible for re-election.

[Introduced by Mr. CALDWELL. Read the first time and referred to the Committee on Education, and ordered to be printed.]

A BILL

To amend an Act, entitled an "Act to incorporate Union Institute, in Randolph County, a Normal College."

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by the autho-*
3 *rity of the same, That J. C. Dobbin, Jno. A. Gilmer,*
4 *W. H. Washington, A. H. Sheppard, H. B. Elliott, J.*
5 *M. Leach, Joseph Johnson, S. G. Coffin, A. S. Andrews,*
6 *Jos. B. Cherry, N. W. Woodfin, B. Craven, Jas. Leach,*
7 *Calvin Graves, Ali Robbins, John B. Troy, Robert*
8 *Strange, Jno. W. Thompson, Samuel Hargrave, J. P.*
9 *H. Russ, M. W. Leach, W. L. Steele, R. M. Saunders,*
10 *W. B. Lane, G. W. Caldwell, C. H. Wiley, Jabez Leach,*
11 *John A. Lillington, and J. T. Morehead, and their suc-*
12 *cessors, be, and they are hereby declared, a body politic*
13 *and corporate, to be known and distinguished by the*
14 *name and style of "The Trustees of Normal College,"*
15 *and by that name and style, shall have a perpetual suc-*
16 *cession and common seal, and be able and capable in*
17 *law, of holding lands, tenements and chattels, for the*
18 *uses and purposes of said College, and of suing and*
19 *being sued, and of pleading and being impleaded.*

II. *Be it further enacted*, That the Governor of the State
 2 shall be *ex officio* President of the Board of Trustees,
 3 and that the common school superintendent, should
 4 such an officer exist, shall be *ex officio* secretary of the
 5 board, and that all vacancies in the Board of Trustees,
 6 shall be filled by the General Assembly of the State.

III. *Be it further enacted*, That the Trustees shall have
 2 power to fix the time of holding their annual and other
 3 meetings, of appointing a president and professors for
 4 said college, and of doing all other things necessary for
 5 an institution of learning, not inconsistent with the laws
 6 of this State, and of the United States.

IV. *Be it further enacted*, That the Faculty, and seven
 2 or more Trustees, shall have power to grant certificates,
 3 which shall exempt the bearer from examination by
 4 county committees, and answer in lieu thereof; they
 5 shall also have power to grant such degrees and marks
 6 of honor, as are given by colleges and universities gen-
 7 erally.

V. *Be it further enacted*, That the Secretary of the
 2 Board of Trustees shall, within ten days after the meet-
 3 ing of each Legislature, make a full report of the condi-
 4 tion and operations of said college, and the general char-
 5 acter of Normal instruction, giving also the names and
 6 residences of all who have been authorized to teach.

VI. *Be it further enacted*, That the Directors of the Lit-
 2 erary Fund pay to the Treasurer of the Trustees of
 3 Normal College, the sum of \$10,000, to be expended by
 4 said Trustees in erecting suitable buildings, and making
 5 other arrangements necessary for an institution of learn-
 6 ing.

VII. *Be it further enacted,* That the State shall have
 2 fifty scholarships in said College, one for each Senatorial
 3 District, and that the Treasurer of said College shall, at
 4 the expiration of each session, pay to the President of
 5 the Literary Board \$12 for each Senatorial District rep-
 6 resented, and that the President of the College shall,
 7 within ten days after the commencement of each session,
 8 notify the sheriff of each county not represented.

VIII. *Be it further enacted,* That the trustees of Nor-
 2 mal College shall furnish good instruction and accom-
 3 modations for at least one student from each Senatorial
 4 District, and shall cause Normal instruction on the
 5 most approved plan to be given, and they shall make
 6 every necessary arrangement for the proper instruction
 7 of teachers.

IX. *Be it further enacted,* That the trustees shall faith-
 2 fully execute every provision and requisition in this act,
 3 or in default thereof, shall forfeit to the Literary Fund,
 4 \$10,000.

X. *Be it further enacted,* That all acts and laws com-
 2 ing within the meaning and purview of this act, be
 3 and the same are hereby repealed.

A MEMORIAL.

Memorial by the Trustees of Normal College.

*To the Honorable the General Assembly of
North Carolina:*

Your memorialists respectfully ask your attention to the subject herein discussed, and hope you may find time and inclination to consider a subject above party, confined to no section, and essentially important to North Carolina.

Moved by the importance of common schools, and the acknowledged want of teachers, twenty of your fellow-citizens solicited the last Legislature for a charter to establish a Normal College, said charter in a very meagre form, was granted. As soon as practicable, we commenced operations in Randolph county, in a fine agricultural region where every thing is cheap, within three miles of the Central Railroad, and about one mile from the Fayetteville and Western Plank road. But the college commenced under every conceivable disadvantage: the charter was limited; the corporation had no funds with which to erect the necessary buildings, and many of public notoriety, who perhaps had not considered the subject, laughed at its object, and scoffed at its pretensions. Normal College was not designed to promote party, sect or section, but was intended to build up the great common school interest in North Carolina. The trustees had no personal interest in the enterprise, and the public had none but general motives to influence their philanthropy; no church organization to throw its fostering arms around it; and no special inducement whatever could be urged for the advancement of pecuniary aid: it stood emphatically alone, without the ordinary attractions of novelty, the faith of demonstrated utility, or the sympathy of enlightened patriotism.

By vigorous exertions, funds were procured, sufficient to erect cheap buildings, on a small scale, a suitable faculty was organized, and operations began in March 1851.

To the astonishment of every person, the first session numbered one hundred and twenty-nine students, and the collegiate year, ending on the 29th of July last, numbered one hundred and fifty-two. Property to the amount of two thousand dollars has been secured, good boarding houses and hotels have been erected, the trustees have prescribed a thorough course of study, and Normal instruction is given on the most approved plan, a model school being attached for practical application. Your memorialists have accomplished what they designed; they have demonstrated the practicability of a Normal College; they were aware from the first, that the experience of other States only confirmed the deductions of reason, by showing that a Normal College must be connected directly with the State government, in order to produce the proper results; but they were willing to make some sacrifices rather than propose public experiments. That a Normal College is adapted to the wants of the country, is a matter beyond dispute; that the one already commenced, is favorably located and organized, is proved by fair experiment, and that the State would appreciate its services, may be inferred from the fact that, during the month of last July, the president of the faculty had two hundred and fifty applications for teachers. Historical testimony proves, beyond cavil, that no government has ever succeeded in establishing efficient public schools, without making provision for properly training and instructing teachers; and statistical facts declare that where good teachers abound, schools will be good, independent of every other circumstance. That our public schools work badly, is admitted and lamented, but the fault is neither in the system nor in the people; the Boards of Superintendents, the Examining Committees, and the great mass of the people, all declare, that a want of teachers is the chief difficulty. The Gover-

nor of the State, as chairman of the Literary Board, has received returns from fifty-eight counties, for 1851; these show seven hundred districts without schools, during the past year; six hundred and eighty of said districts had funds in the hands of the chairman, in sums varying from \$25 to \$159: the reason assigned for the non-existence of schools in these districts, was the impossibility of procuring teachers. Take, for illustration, Rowan county, containing forty seven districts; the last report was made November 14, 1851, which shows a balance of \$5,079 61 in the hands of the chairman; deduct \$3224 56 which was received after the winter schools closed, and \$1,855 09 had remained in treasury more than one year unemployed; yet every district in the county have schools, except one. This can be accounted for by observing, that there are very few teachers in the county, and that most of those who do teach, have other employments, and cannot be induced to continue but a few months in the winter, so that this county has more money, than it can find teachers to earn. Bladen had by the last report, 55 districts, and 22 schools; Mecklenburg has 31 districts, without schools, and \$2,637 88 unemployed; Northampton has schools in every district, except two, and still has \$2,770 68 unexpended; Onslow has 23 districts, 7 schools, and \$1,147 12 in the treasury. Almost every county exhibits similar results, showing conclusively that want of teachers is an evil of greater magnitude, than want of money.

But the acquirements of those who do teach in North Carolina are too indifferent to sustain a system of common schools, however well organized and supported. Your Memorialists have, by written statements, learned the acquirements of 3000 teachers employed in this State, during the last eighteen months; of these, 2000 cannot teach english grammar, 1800 are deficient in geography, 1200 cannot teach the whole of ordinary arithmetic, 1000 can scarcely make out a readable return. By far the largest number have no idea of any government except force, and have no

conceptions whatever of rational discipline. Seven hundred gentlemen in the counties of Chatham, Randolph, Guilford, Davidson, Forsyth, and Rowan, are sending children under fourteen years of age to boarding schools, solely because their Common Schools have not efficient teachers. The Chairman of the Board in New Hanover county, in his official report to the Literary Board, says, "incompetent teachers are the bane of the system," and suggests the absolute necessity of improvement. The chairman in Rowan says: "We lack teachers who know how to teach, and the State should by all means make provision for their instruction;" and the chairman in Bertie, in a like report, says: "The only thing that impedes the system, is the want of competent teachers;" and yet the returns from Bertie and New Hanover show an efficiency not surpassed by more than three counties in the State. The published reports of the German States, Scotland, Massachusetts, New York, and others, unite in declaring, that Normal instruction is the only means of rendering efficient, any system of general instruction. The Emperor of Russia built three large Normal schools, several years before commencing his system of general education; Prussia spends one-eighth of her school fund upon teachers, and the New England States have expended for the same purpose more than \$1,000,000.

Academies and ordinary colleges will never educate common school teachers: they are not patronized by the proper class of society, they create a different spirit in their pupils, they impart no instruction as to mode and application, and according to the statistics of other States, have never increased the number of efficient teachers. North Carolina has a respectable school law, a reasonable literary fund, a citizenship eager for knowledge, and yet from \$20,000 to \$50,000 of necessity remains unexpended every year, for want of teachers. We appeal to you, the legislators of a sovereign, high-minded State, to remedy this evil; stop this wholesale waste; make provision that the people may have the use of their money; invigorate the wasting energies

of public schools, the only hope of a free people, by making provision for the instruction of teachers worthy to mould the destinies of the rising generation.

Your memorialists recommend Normal College, with no design but the public good. They have nothing to gain personally, by its success, nor have they anything to lose by its failure, except so far as they are influenced by patriotic motives, to elevate the great middle classes of society; but they are convinced of its importance to State interest; they feel assured of its success, if once made a real State institution; they hope, therefore, you will amend the charter, and give the college full liberty to work out its proper results. If it be thought best, we will freely surrender to the State all our property, claims and rights as a corporation, without remuneration, claim or reserve; we ardently desire for North Carolina to take Normal College, and make it an efficient agent in procuring good teachers, and we are convinced that this can be done, not only without expense, but with absolute advantage to the Literary Fund. An expenditure of \$10,000, in addition to what has already been expended, will make ample provision for from two hundred to three hundred students. The patronage already includes twenty-five senatorial districts in this State, with 15 students from South Carolina, 5 from Virginia, 1 from Tennessee, and 1 from Mississippi. So favorable is the location of Normal College, that tuition, board and other accommodation, not inferior to that of Colleges generally, can be afforded at \$45 per session.

Respectfully submitted.

H. B. ELLIOTT,
A. H. SHEPPARD,
L. M. LEACH,
JABEZ LEACH,
L. BLACKMER,
JAMES LEACH,
A. S. ANDREWS,
J. P. H. RUSS,
S. G. COFFIN,
J. B. TROY,

JNO. A. GILMER,
M. W. LEACH,
SAM'L HARGROVE,
AHI ROBBINS,
JOSEPH JOHNSON,
JNO. W. THOMAS,
C. M. LINES,
B. CRAVEN,
J. M. LEACH,
ELI RUSSELL,

Trustees of Normal College.

P E T I T I O N .

The undersigned citizens of the Town of Fayetteville, and of the County of Cumberland, respectfully pray the General Assembly, to pass the accompanying Bill for the establishment of a Bank in Fayetteville.

Your memorialists respectfully show, that there is in Fayetteville and Cumberland County, a great want of Banking facilities, and that the amount of Capital is inadequate to the requirements of business.

Twenty five years ago, the amount of Banking Capital was \$1.050.000. Now, although the population has very largely increased since 1830, the Capital employed is only \$830.000. Then, two Steamers were sufficient for the carrying trade between Fayetteville and the port of Wilmington. Now there are 10 Steamers actively engaged, and 3 others are in progress of building. In the mean time the trade has more than doubled. Then, scarcely a barrel of Naval Stores was exported; now there are 36 distilleries within the reach of the market of Fayetteville, and dependant upon it for supplies, and requiring to successfully carry on business a Capital of \$400.000. Then there was not a cotton spindle in motion; now there is in Fayetteville and its vicinity, seven Cotton Mills, and an extensive Paper Mill, with a Capital of at least \$450.000.

In the last four years, the citizens of this County have perfected five Plank Roads, viz:

The Fayetteville and Western, stretching out 120 miles, to Salem, 106 miles of which have been completed.

The Southern Road, 17 miles completed.

The Northern Road, of 60 miles, 10 of which are completed and under toll.

The Raleigh Road of 60 miles, 11 of which are completed and under toll.

The Centre Road reaching through Richmond, Montgomery, Stanly, and Cabarrus County to Concord, 15 miles of which are nearly completed and 35 miles under contract, besides numerous branches diverging from the main stems of these several Roads—the whole investments on Plank Roads reaching to at least \$375,000.

The export value of timber and lumber down the Cape Fear River, to Wilmington, from Cumberland alone, amounts to \$500,000. The latter, the product of 8 Steam Mills, and numerous Water Mills.

Your memorialists therefore represent, that the development of the resources of this county, and the successful issue of the numerous enterprizes, requires an increase of Banking facilities, and they rely upon the wisdom and liberality of the Legislature for proper chartered privileges.

W. W. Waddill, Jr.
Joel Williams,
N. R. McDuffie,
T. S. Lutterloh,
Chs. Montague,
A. A. McKethan,
Augustus W. Steel,
Jos. Utley,
C. Benbow,
Geo. McNeill,
Cook & Taylor,
Ray & Pearce,
Thos. J. Curtis,
S.W. Tillinghast,
Warren Winslow,
Wm. H. Haigh,
William J. Latta,
J. M. Williams,
D. & W. McLaurin,
N. Branson,
H. Branson,

A. H. Whitfield,
J. D. Callais,
John P. Leonard,
R. Little,
Tho. H. Massy,
Wm. Watson,
W. J. McDiarmid,
J. B. Nicholson,
Robert Mitchell,
G. W. McDiarmid,
W. W. Jones,
M. W. Jessup,
McDonald & J. W. Masten,
Peter P. Johnson,
S. F. Arey,
Jno. Smith,
S. Boon,
T. G. Hall,
L. H. Steel,
J. C. Thomson,
S. J. Hinsdale,

Edw'd Lee Winslow,
 J. McGilvary,
 D. T. Newby,
 A. W. Campbell,
 Edwin Glover,
 C. S. Irving,
 J. B. Hawley,
 Warren Prior.
 Geo. W. McDonald,
 P. Shemwell,
 Jas. D. Nott,
 John Nott,
 Charles Banks,
 C. A. McMillan,
 Jas. A. McRae,
 G. Dorning,
 C. W. Andrews,
 Willkings & Co.,
 John H. Hall,
 Hall & Sackett,
 J. G. Shepherd,
 William Bow,
 Beverly Rose,
 Thos. C. Fuller,
 Jno. D. McWilliams,
 Isaac Dodd,
 Thos. J. Robinson,
 Benj. F. Pearce,
 James Crow,
 J. S. Banks,
 P. Taylor,
 E. S. Hobbs,
 C. Carson,
 W. H. Carver,
 Jas. Cain,
 David Gee,
 Alex. Johnson & Co.,
 Hugh Graham,
 W. F. Moore,
 J. T. Council & Cain,
 Chas. D. Nixon,
 F. D. Briell,
 C. S. Johnson,
 J. W. Leet,
 W. McIntyre,

J. M. Beasley,
 And. O'Hanlon,
 Cook & Johnson,
 J. L. Waddill
 A. M. Laughtin,
 J. W. Powers,
 W. G. Barbee,
 Alex. Williams,
 G. W. J. Goldston,
 J. B. Ferguson,
 J. H. Pemberton,
 Gnat Baker,
 John C. Haigh,
 Geo. Lauder,
 N. A. Stedman,
 John Smith,
 Archibald Graham,
 John McRae,
 D. McRae,
 Daniel Clark,
 John Fort,
 W. H. Lutterloh,
 A. M. Johnson,
 J. P. Johnson,
 W. P. Horne,
 J. C. Stedman,
 E. Fuller,
 O. P. Stark,
 A. C. Hart,
 D. G. McRae,
 Geo. S. Hodges,
 B. Fuller,
 Lawrence & Troy,
 W. B. Wright,
 W. A. Huske,
 M. McKinnon,
 R. M. Orrell,
 J. E. Bryan,
 J. Winslow,
 C. Lutterloh.
 W. G. Mathews,
 A. J. McPherson, Jr.
 W. A. Rose,
 T. P. Underwood,
 W. T. Evans.

WE certify that notice has been given in the Fayetteville Observer, for more than thirty days prior to this time, that an application would be made to the present General Assembly, to charter the Bank of North Carolina, in the town of Fayetteville.

E. J. HALE & SON,
Proprietors of the Observer.

OCTOBER 28, 1852.

A BILL
TO INCORPORATE
THE BANK OF
NORTH CAROLINA.



RALEIGH:
SEATON GALES, PRINTER TO THE LEGISLATURE.

1852

[Introduced by Mr. MURCHISON. Read the first time and referred to the Committee on Corporations, and ordered to be printed.]

A BILL

To Incorporate the Bank of North Carolina.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That a Bank shall be established in the town of Fayetteville, the capital stock of which shall not exceed three hundred thousand dollars, divided into shares of fifty dollars each, and that for the purpose of receiving subscriptions for said stock, books shall be opened on the 1st day of December, 1852, and remain open for the space of twenty days at Fayetteville, under the superintendence of George McNeill, David A. Rey, James Martine, Jno. H. Cook, Sampson Boon, Warren Winslow, Jesse G. Shepherd, John J. Williams, Wm. McIntyre, and Daniel McDiarmid, and at such other places, and under the superintendence of such other persons, as said commissioners may direct.

II. *Be it further enacted,* That one-tenth of such shares shall be paid in gold and silver, or their equivalent, to the commissioners above named, at the time of subscribing, that another tenth shall be paid within thirty days thereafter, that another tenth shall be paid within sixty days, that another tenth shall be paid within ninety days, that another tenth shall be paid within one hundred and twenty days, and that the remainder shall be paid as the President and Directors, hereinafter provided to be elected, may direct; and if any subscriber shall fail to pay any instalment, at the time stipulated, he shall pay interest thereon, at the rate of six per cent. per annum, and his stock shall be forfeited, and may be sold by the Bank, and the proceeds applied to the payment of the

15 aforesaid deficit instalment, and he shall be held respon-
 16 sible for the same, at the option of the Bank ; and the
 17 balance, if any, of such sale, to be paid over to the said
 18 subscriber : *Provided*, That no dividend shall be de-
 19 clared, until the whole amount of the stock subscribed
 20 shall be paid in gold or silver, or their equivalent.

III. *Be it further enacted*, That, when one thousand
 2 shares are subscribed, and the sum of twenty-five thou-
 3 sand dollars is actually paid to the commissioners, the
 4 subscribers to the said bank, their suecessors and as-
 5 signees, shall be, and are hereby created, a body politic
 6 in law and in fact, by the name and style of "The Bank,
 7 of North Carolina;" and shall so continue until the 1st
 8 day of January, one thousand eight hundred and eighty,
 9 and by the name and style aforesaid, they shall be, and
 10 are hereby made able and capable in law, to have, pur-
 11 chase, receive, possess, enjoy, and retain to themselves
 12 and successors, land, tenements, rents, hereditaments,
 13 goods, chattles, and effects, and the same to grant, alien,
 14 and dispose of, to sue and to be sued, implead and be
 15 impleaded, answer and be answered, defend and be de-
 16 fended, in Courts of record, or any other place whatso-
 17 ever, and also to make, have and use, a common seal,
 18 and the same to break, alter or renew, at their pleasure ;
 19 and also to ordain, establish and put in execution, such
 20 by-laws, ordinances and regulations, as shall seem
 21 necessary and convenient, for the government of said
 22 corporation ; and for the making whereof, general meet-
 23 ings of the stockholders may be called, in the manner
 24 hereafter specified ; and generally to do and execute all
 25 acts, matters and things, which a corporation and body
 26 politic in law may, or can lawfully execute, and be sub-
 27 ject to the rules, regulations, restrictions, and provisions,
 28 hereafter prescribed and declared.

IV. *Be it further enacted*, That, as soon as one thou-
 2 sand shares shall be taken in the stock of said bank, and

3 twenty-five thousand dollars paid to the commissioners
 4 who keep the books, notice shall be given in the news-
 5 papers published in Fayetteville, a meeting of the
 6 subscribers, to be held at least ten days after the date of
 7 the notice, shall be called. If at this meeting, those or
 8 their agents, who have a majority of the votes, according
 9 to the rates hereafter described, be present, (if not, ano-
 10 ther meeting shall be called,) they shall proceed to the
 11 election of seven directors, who shall take charge of the
 12 books and money in the hands of the commissioners,
 13 and immediately pursue the usual means to put the
 14 bank in operation; the said directors shall remain in
 15 office until the 1st Monday in December, 1853, or until
 16 their successors shall be appointed; and on the first
 17 Monday in December in each year, or at any time
 18 thereafter, meetings of the stockholders shall be held in
 19 the town of Fayetteville, for the purpose of electing
 20 directors, inquiring into the affairs of the institution,
 21 and making such regulations as may be deemed fit and
 22 necessary.

V. *Be it further enacted*, That the following rules and
 2 regulations and provisions shall form and be the funda-
 3 mental articles of the Constitution of the Corporation. A
 4 meeting of the Stockholders cannot be held, unless those
 5 who have a majority of the whole number of votes be
 6 present; and every act shall require the sanction of the
 7 majority of the votes which may be present. Every
 8 Stockholder holding one share and not more than two
 9 shares, shall be entitled to one vote; for every two shares
 10 above two, and not exceeding ten, one vote; for every
 11 three shares above ten, and not exceeding one hundred,
 12 one vote; and for every four shares above one hundred,
 13 one vote. After the first meeting, no share or shares,
 14 shall confer a right of voting, which shall not have been
 15 holden three calendar months, previous to the day of
 16 voting. Stockholders may vote at general meetings

17 and elections by proxy, the proxy being himself a Stock-
 18 holder. No President, Cashier, Agent or Clerk of the
 19 Bank, shall be permitted to vote as proxy for another.
 20 None but a Stockholder, who is a citizen of the State,
 21 shall be eligible as a Director, and the Directors when
 22 appointed, shall choose one of their number (which shall
 23 always be seven) to be President of the Bank, and shall
 24 manage the institution as shall seem best to them, unless
 25 otherwise directed by the stockholders; but compensa-
 26 tion to the President and directors shall be granted at
 27 the pleasure of the stockholders. Not less than three
 28 directors, of whom the President shall always be one,
 29 shall constitute a board for the transaction of business;
 30 except in case of absence or sickness of the President,
 31 when he may, by writing, nominate any other director
 32 to supply his place. A number of the stockholders,
 33 not less than ten, who together shall be the owners of
 34 two thousand shares or upwards, shall have power, at
 35 any time, to call a general meeting of the stockholders,
 36 for purposes relating to the institution, giving at least
 37 twenty days notice in a public newspaper, published in
 38 the town of Fayetteville, and specifying the object, or
 39 objects of such meeting. The Directors shall annually
 40 elect such officers as may be deemed necessary, to per-
 41 form the business of the Bank, and may remove them
 42 or either of them at pleasure. Those officers shall be
 43 required to give bonds, with two or more securities, in
 44 sums not less than ten thousand dollars, with a condi-
 45 tion for good behavior and faithful performance of duty.
 46 The cashier shall keep a book to contain the proceedings
 47 of the board of directors, the names of those present,
 48 the date and day of each meeting; and shall record the
 49 yeas and nays on any question, when asked for by a di-
 50 rector. This book shall be evidence in courts of justice
 51 against said bank; and, on entering on discharge of his
 52 duties, the cashier shall take the following oath or affir-
 53 mation, before some Justice of the Peace, by whom it

54 shall be deposited in the office of the clerk of the county
 55 court of Cumberland, namely: "I, A. B., do solemnly
 56 swear (or affirm, as the case may be,) to keep a just and
 57 true record, without alteration or erasure, of the trans-
 58 actions of the board of directors of the Bank of North
 59 Carolina, in a book to be kept by me for that purpose."
 60 The said corporation shall purchase and hold only such
 61 lands, tenements, rents and hereditaments as shall be
 62 required for the convenient transaction of its business,
 63 or shall have been *bona fide* mortgaged to it by way of
 64 security, or conveyed to it in satisfaction of debts pre-
 65 viously contracted, in course of its dealings, or purchas-
 66 ed at sale upon judgments which shall have been obtain-
 67 ed upon such debts. The said corporation shall neither
 68 directly nor indirectly trade in anything except bills of
 69 exchange, promissory notes, gold or silver bullion, or in
 70 the sale of goods really and truly pledged for money
 71 lent and not redeemed in due time, or in goods which
 72 shall be the produce of its lands, mint certificates, and
 73 the public debts of this State and of the United States:
 74 *Provided*, the investments in such stock shall not ex-
 75 ceed one-half of the capital stock of this bank: neither
 76 shall the said corporation take more than a rate of one-
 77 half per centum, for thirty days, for or upon its loans or
 78 discounts, which interest may be taken in advance at
 79 the time of discount. The total amount of the debts
 80 which the said corporation shall, at one time, owe,
 81 shall not exceed twice the amount of stock actually paid
 82 in over and above the sum then actually deposited in
 83 the bank for safe-keeping. If a vacancy in the direc-
 84 tory shall occur, by death, resignation, or otherwise, the
 85 remaining directors shall fill such vacancy until the
 86 succeeding annual meeting of the stockholders. The
 87 stock of the said corporation shall be assignable and
 88 transferable, according to rules which shall be institu-
 89 ted in that behalf by the laws and ordinances of the
 90 same. The officer at the head of the treasury depart-

91 ment of the State shall be furnished, once in six months,
 92 with a statement of the amount of the capital stock of
 93 said corporation, and the debts due the same; and the
 94 monies deposited therein; of the notes in circulation,
 95 and of the cash in hand; and shall have a right to in-
 96 spect such general accounts in the books of the Bank.
 97 as shall relate to the said statements: *Provided* That this
 98 shall not be construed to a right of inspecting the ac-
 99 count of any private individual with the bank, except di-
 100 rectors. The bills obligatory and of credit, under seal of
 100 said corporation, which shall be made to any person or
 101 persons, shall be assignable by endorsement thereon,
 102 under the hand or hands of such person or persons, and
 103 of his, her or their assignee or assignees, and so as ab-
 104 solutely to transfer and vest the property therein, in
 105 each and every assignee or assignees successively, and
 106 to enable such assignee or assignees, to bring and main-
 107 tain an action thereupon, in his, her or their name, or
 108 names; and bills or notes, which may be issued by order
 109 of said corporation, signed by the President, and coun-
 110 tersigned by the Cashier, promising the payment of
 111 money, to any person or persons, his, her or their order,
 112 or, to bearer, though, not under the seal of said corpor-
 113 ation, shall be binding and obligatory, on the same, in
 114 the like manner, and with the like force and effect as
 115 upon any private person or persons; that is to say, those
 116 which shall be payable to any person or persons, his, her
 117 or their order, shall be assignable by endorsement, in
 118 like manner and with like effects, as foreign bills of Ex-
 119 change now are, and those which are payable to bearer
 120 shall be negotiable by delivery only.

VI. *Be it further enacted*, That if any person or persons,
 2 holding a note or notes of said Bank, shall present the
 3 same for payment, and payment shall be refused, the
 4 said note or notes shall draw interest, at the rate of 12
 5 per cent. per annum, from the time of said demand, and

6 the said Bank, shall pay the same, any law to the con-
 7 trary notwithstanding; and the holder of the notes of
 8 said Bank, if not paid on demand, may bring an action
 9 of assumpsit, against one or all of the Directors, who
 10 may have consented to issue more than twice the stock
 11 paid in, provided the Bank be unable to pay the amount.

VII. *Be it further enacted*, That in case of insolvency
 2 of the Bank, hereby created, or ultimate inability on the
 3 part of this corporation to pay, the individual Stockhol-
 4 ders shall be liable to creditors, in sums double the
 5 amounts of stock by them respectively held in said cor-
 6 poration.

VIII. *Be it further enacted*, That the directors shall be
 2 allowed to keep open the subscription books until the
 3 whole of the stock shall be taken.

IX. *Be it further enacted*, That if any Director or any
 2 other officer, agent or servant of said corporation shall
 3 embezzle any of the funds belonging to said Bank, with
 4 intent to defraud said corporation, or make false entries
 5 upon the books of said Bank, with intent to defraud said
 6 corporation or any other person whatsoever, said officer,
 7 agent, or servant, shall be held and deemed guilty of
 8 felony, and upon conviction thereof, by due course of
 9 Law, shall be punished by fine, at the discretion of the
 10 Court, and imprisonment not exceeding five years.

X. *Be it further enacted*, That if any person shall falsely
 2 make, forge or counterfeit, or cause or procure, to be
 3 falsely made, forged or counterfeited, or willingly aid or
 4 assist in falsely making, forging or counterfeiting any
 5 bill or note, in imitation of, or purporting to be, a bill o
 6 note issued by order of the President and Directors of
 7 the Bank of North Carolina, or any order, or check
 8 upon said Bank, or corporation or any Cashier thereof,

9 or shall falsely alter, or cause or procure to be falsely
 10 altered, or willingly assist or aid in falsely altering any
 11 bill or note, issued by order of said corporation, or any
 12 order or check on said Bank, or any cashier thereof, or
 13 shall pass or receive, with intent to pass, alter or pub-
 14 lish as true, any false, forged or counterfeited bill or note,
 15 issued by order of said corporation, or any false, forged
 16 or counterfeited check or order, upon the said Bank, or
 17 any Cashier thereof, knowing the same to be falsely
 18 forged or counterfeited, or shall pass, or receive with intent
 19 to pass or publish as true, any falsely altered bill or note
 20 issued by order of said bank; or any falsely altered or-
 21 der or check on said bank, or any cashier thereof, know-
 22 ing the same to be falsely altered, with intent to defraud
 23 the said corporation, or any other body politic, or per-
 24 son or persons, every such person shall be deemed
 25 guilty of felony, and, on being thereof convicted by due
 26 course of law, shall be imprisoned not exceeding ten
 27 years, and fined not exceeding five thousand dollars.

XI. *Be it further enacted*, That the president or cashier
 2 of said bank shall annually pay into the Treasury of the
 3 State, twelve and a half cents on each share of said
 4 capital stock, which have been subscribed for and paid
 5 in, and the first payment of said tax shall be made twelve
 6 months after said stock shall have been subscribed and
 7 paid.

XII. *Be it further enacted*, That the directors of said
 2 bank may declare semi-annually dividends of the profits
 3 thereof; and, if at any time, more than the real profits
 4 are divided, the directors assenting thereto shall be re-
 5 sponsible in their private capacities, to creditors, who
 6 have claims against the said institution.

XIII. *Be it further enacted*, That the president of this
 2 bank shall, on the first week in December, during the

3 sitting of the General Assembly, transmit to the Gene-
 4 ral Assembly, a full statement of the condition of the
 5 bank, exhibiting the amount of capital, notes in circu-
 6 lation, debts due to other banks, and to what banks,
 7 deposits, and all other particulars, necessary to explain
 8 the debit side of the accounts, also specie on hand, notes
 9 of other banks, and what banks, bills of exchange, debts
 10 or bonds, and notes discounted, and specifying in one
 11 item, the amount due from stockholders, and in another,
 12 the amount due from directors; not, however, using any
 13 person's name in either case; and real estate.

XIV. *Be it further enacted*, That, if any president, cash-
 2 ier, clerk, or other officer, of the aforesaid bank, shall,
 3 knowingly, wilfully, and with intent to deceive, make,
 4 or cause to be made, or connive at making, any false
 5 return, statement, or exhibits, of the condition of the
 6 bank, either to the Treasurer of the State, or to the Leg-
 7 isature, or to the Board of Directors, or to the Stock-
 8 holders, or to any other person or persons, that may be
 9 authorized by the legislature, or by the stockholders, to
 10 receive the same, such president, director, cashier, clerk,
 11 or other officer, and all persons, aiding or abetting, in
 12 such deception, or false return, shall be liable to be in-
 13 dicted for a misdemeanor, in the Superior Courts, and
 14 upon conviction, shall be fined at the discretion of the
 15 court, and imprisoned not exceeding one year.

XV. *Be it further enacted*, That, whenever the Legis-
 2 lature may be of opinion, that the charter of the corpo-
 3 ration hereby granted shall have been violated, it may
 4 be lawful, by joint resolution, to direct the Attorney
 5 General, with such assistant counsel, as the Governor
 6 or Legislature may think proper to engage, to issue a
 7 writ of *scire facias*, returnable before the Judges of the
 8 Supreme Court, calling upon said corporation to show
 9 cause, why the charter hereby granted shall not be for-

10 feited, subject to the same proceedings as are now pre-
 11 scribed by law, as in cases of other corporations.

XVI. *Be it further enacted*, That, if it shall happen,
 2 when books shall be opened, as aforesaid, that a greater
 3 sum than three hundred thousand dollars shall be sub-
 4 scribed by individuals, or by bodies corporate, it shall
 5 and may be lawful, for the commissioners to reduce
 6 such subscriptions, according to a scale by them to be
 7 established, for that purpose, to the aforesaid amount of
 8 three hundred thousand dollars: *Provided*, That no
 9 subscription of two shares, or under, shall be scaled,
 10 until all larger subscriptions shall be reduced to an
 11 equality with them.

XVII. *Be it further enacted*, That the said bank shall
 2 not have power to issue any note or notes of a lower
 3 denomination than three dollars.

XVIII. *And be it further enacted*, That, if at any time
 2 hereafter, it shall be necessary, the president and direc-
 3 tors shall have full authority, with the consent of the
 4 stockholders, to increase the capital stock to an amount
 5 not exceeding six hundred thousand dollars.

[SENATE DOCUMENT, No. 12.]

[Introduced by Mr. CANNADY.—Read first time and passed ; referred to Committee on Judiciary, and ordered to be printed.]

A BILL

In Relation to Executors of Last Wills and Testaments.

1. *Be it enacted by the General Assembly of the State of*
 2 *North Carolina, and it is hereby enacted by the autho-*
 3 *rity of the same,* That hereafter, when any person shall
 4 die, leaving a will, and an executor thereto, that it shall
 5 be the duty of such executor, on proving the will, to
 6 give bond and surety in double the amount of the es-
 7 tate, for the faithful administration of the will, he hav-
 8 ing been previously required thereto by any one of the
 9 legatees, devisees or distributees, before the proving of
 10 the same ; and that after the proving of the will, the
 11 legatees, distributees or devisees, or any one of them,
 12 at any time, shall have the power, on motion, in open
 13 Court, to require bond and surety in double the amount
 14 from such executor, for the faithful administration of
 15 the will of such deceased person, ten days notice hav-
 16 ing been previously given, before the meeting of the
 17 Court ; and any executor failing to comply with the
 18 requirements of this act, it shall be the duty of the

19 Court to appoint an administrator under the same
20 rules and regulations as now apply to the administra-
21 tion of estates.

II. *Be it further enacted*, 'That this act shall take ef-
2 fect from and after its ratification.

[Introduced by Mr. MITCHELL, and referred to the Committee on the Judiciary. Reported, and laid on the table and ordered to be printed.]

The Committee on the Judiciary to whom was referred a Bill to expedite the trial of suits in certain cases in the Courts of law, have had the same under consideration and instruct me to report the bill back to the Senate and recommend its rejection.

Respectfully submitted.

N. W. WOODFIN, *Chairman.*

A BILL

To expedite the trial of suits in certain cases in the Courts of Law.

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina and it is hereby enacted by the author-*
3 *ity of the same,* That in all suits pending in any of the
4 Courts of Law of this State, wherein matters of account
5 are involved, the said Courts shall have the power to re-
6 fer such matters of account to the Clerk of the Court or
7 other person or persons, to take an account under the
8 rules and regulations, as are prescribed for taking ac-
9 counts in the Courts of Equity. The report of such auditor
10 or auditors, when confirmed by the Court, shall be con-
11 clusive evidence of the state of the accounts, between
12 the parties to the suit.

II. *Be it further enacted*, That when either of the parties, plaintiffs or defendants, to a suit pending in any of the County Courts of this State, that shall have been referred according to the provisions of this Act or any other Act of the General Assembly or according to established rules of said Court, for the purpose of having an account taken, shall be dissatisfied with any interlocutory order, judgment or decree of said Court, touching the report of the account made by the auditor in said suit, such party may have an appeal from such order, judgment or decree to the Superior Court of Law for said County, under the same regulations as are prescribed for the ordinary cases of appeals from the County Courts to the Superior Courts; and by an appeal taken according to this section the suit shall be entirely transferred to the Superior Court, to be therein prosecuted and determined in the same manner as suits constituted in the Superior Court by appeals from final judgments of the County Court; and it shall be the duty of the Clerk of the county wherein such appeal is granted, to return to the Superior Court, a full specified record of said suit, as in other cases of appeal to the Superior Court, from the County Courts.

A BILL

To Amend the 1st Section of the 64th Chapter of the Revised Statutes.

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by the autho-*
3 *rity of the same,* That, in every case, when any person
4 shall die intestate, without leaving a child, or any legal
5 representative of such child, then one-half of the estate
6 shall be allotted to the wife of the intestate, and the res-
7 idue of said estate shall be distributed equally to every
8 of the next of kin of the intestate, and to those who le-
9 gally represent them; and that so much of the above
10 recited act, as conflicts with the foregoing provisions,
11 be, and the same are hereby repealed.

REPORT.

The Judiciary Committee have had this bill under consideration, and have instructed me to strike out all after the enacting clause, and substitute the following amendment marked (A.) and recommend its passage.

A. R. KELLY,
A member of the Committee.

(A.)

1. That the first section of the sixty-fourth chapter of the 2 revised statutes, entitled "legacies, filial portions, and 3 distributive shares," be so amended, that, hereafter, 4 when any person dies intestate, possessed of personal 5 estate, leaving a widow, but leaving no child or children, 6 nor any issue of the same, one-half of said estate shall 7 be allotted to said widow, and the residue of said estate 8 shall be distributed as now provided by law: *Provided*, 9 That, if the husband makes a will, and the widow dis- 10 sents from the same, she shall only be entitled to one- 11 third of the personal estate, and the residue thereof shall 12 be distributed as now directed.

II. *Be it further enacted*, That all laws coming in con- 2 flict with the provisions of this act be repealed, and 3 that this act be in force from and after its ratification.

[Received in the House of Commons, and transmitted to the Senate, with a proposition to print. Ordered to be printed.]

R E S I G N A T I O N.

*To the Honorable the General Assembly of North Carolina
now in session :*

GENTLEMEN:—I desire to retire to the walks of private life, and, therefore, pray your honorable body to accept the resignation of my place on the Bench of the Supreme Court. In surrendering this trust, I would wish to express my grateful sense of the confidence and honor, so often and so long bestowed on me by the General Assembly. But I have no language to do it suitably. I am very sensible, that they were far beyond my deserts, and that I have made an insufficient return of service. Yet, I can truly aver, that to the best of my ability, I have administered the law as I understood it, and to the ends of suppressing crime and wrong, and upholding virtue, truth and right : aiming to give confidence to honest men, and to confirm in all good citizens a love for our country, and a sure trust in her laws and magistrates. In my place, I hope I have contributed to

those ends, and I firmly believe, that our laws will, as heretofore, be well executed, and our people happy in the administration of justice, honest, and contented, as long as they keep, and only as long as they keep, the independent and sound judiciary now established in the constitution; which, with all other blessings, I earnestly pray, may be perpetuated to the people of North Carolina.

I have the honor to be, gentlemen,

Your most obliged and ob't serv't,

THOMAS RUFFIN.

RALEIGH, November 10, 1852.

A MEMORIAL
OF
THE GRAND DIVISION
OF THE
SONS OF TEMPERANCE.

— . . . —

RALEIGH:
SEATON GALES, PRINTER TO THE LEGISLATURE

1852

[Presented by Mr. Gilmer. Laid upon the table, and
ordered to be printed.]

M E M O R I A L .

*To the General Assembly
of the State of North Carolina :*

The Grand Division of the Sons of Temperance of the State of North Carolina, exercising the right accorded to every freeman and to every class of freemen, as a Body, speaking through our official channel, most respectfully ask to be heard by you upon the great truths for the vindication of which we have been organized, and in which the communities, in whose behalf you have come together, are most deeply interested.

We assume as a fact which every enlightened mind knows to be true, and which needs no attestation but that conscious sense which God has put in every man's bosom, that many great evils afflict your constituents, that flow, either directly or incidentally, from the use of ardent spirits.

We beg leave, in this connection, to remind you of the heavy sums paid in money by the orderly and discreet classes for the punishment of crimes and misdemeanors committed under the influence of spirituous liquor. We are persuaded that these amounts far exceed all the taxes paid by the people of our State for other purposes, and are far beyond the amount that was ever levied by any Government, free or despotic, in the way of taxes, for any purpose.

We also call your attention to the fact, that great numbers of able-bodied citizens are rendered lazy, idle, impro-

vident, and incapable of labor, by the enervating effects of alcohol, while large numbers of others are hastened into premature graves ; by which consequence, a large portion of the productive labor of the country is withdrawn or held back, and those who should render it are converted into unprofitable consumers ; and thus increased exactions are made upon the hard earnings of the industrial classes.

We beg you also to consider in what a degree these examples tend to affect the morals, the intelligence and the physical energies of those that are to come after us, and who are to take our places when we have ceased to exist upon earth.

We conjure you also to reflect what amount of pain and sorrow is thus introduced into the domestic circles of those whom you represent, and especially how often the female portions of our population are, on this account, insulted and oppressed, and how often reduced to poverty and shame.

We submit to you, also, how much less secure the enjoyment of every species of property, even the houses above our heads, are rendered by the unbridled excesses of drunkenness.

How often peaceful assemblages of our citizens are disturbed by shocking imprecations and disgusting spectacles.

How often the Sabbath day is contemned and profaned. How all religious and moral sympathies, and all pure affection and all refined sentiments and tastes, are made to wither under the influence of strong drink.

How peace on earth and good will towards man have, from this cause, taken flight and forsaken many parts of our country.

This brief and imperfect recapitulation is deemed by us appropriate, because all the evils and grievances of which we have spoken are clearly within the range of your legislative functions, and within your power to alleviate, if not entirely to redress.

The legislation of North Carolina, upon the subject of the vending of spirituous liquor, which imposes a tax of

Ten Dollars upon all such as are licensed to sell, and which makes it penal in all others to deal in it, in quantities less than a quart, is an acknowledgment, to some extent, of the force of the truths we have endeavored to bring to your consideration. But we humbly conceive that this legislation is based upon wrong principles. We regard Intemperance as a sin, and all the facilities and encouragements given to it as moral wrongs.

The vending of ardent spirits, by the permission of our law, we look upon as among the first and foremost of these facilities and encouragements. No provisions by which it is to be regulated can be right; as well might the Legislature, for a bonus paid into the Treasury, grant a license for the commission of adultery, or profanity, or sacrilege. We cannot contemplate this traffic as a legitimate source of revenue. Nor does the amount derived from this impure source bear any proportion to the evils, which, under this permission, are brought upon society. It is partial and temporizing, and only serves to film over the ulcerous place, and does not at all meet the exigency. The usual enquiry of the Courts on an application for a license, is whether there is a demand for another retail establishment, viz: whether the consumers of ardent spirits are put to any inconvenience in procuring their daily rations of pestilential liquid? We cannot find that the price is at all increased, or any other impediments to a free use of spirits at all produced by this enactment. On the other hand, it serves to establish places of rendezvous for inebriates, where the force of example and power of association are brought powerfully to co-operate with the continually increasing fury of their animal cravings. There is no provision in this law, that the purchasers of this fatal privilege are made in any way liable for the consequences, which naturally proceed from their business. The victim of these ministrations may fall into the gutter and be strangled, or against the curb-stone, and his brains may be spattered on the pavement, or he may fall into the fire and be burned; he

may be robbed, or even murdered in the state of helplessness, to which the retailer has reduced him, and he that furnished the cause and took a profit for it is not held liable in this act, or by any other, civil or criminal. If such be the character of this law, will not your wisdom frame some more consistent end effective remedy for this evil?

We, therefore, as the friends of humanity and well-wishers to our race, respectfully approach your Honorable Body, and ask that you use the ample powers with which you are invested, to extinguish at once this most terrible evil. We are satisfied that there is but one way to do so, and that is to prohibit the traffic altogether. This has been tried in other States, and has worked a great good already, and promises much more. We, therefore, humbly ask you to prohibit entirely the vending of ardent spirits as a beverage, in any quantities, within the borders of North Carolina.

We are aware that this application is going forward a good ways in the work of reform, and may not be regarded by you with favor on that account. But we should be wanting in self respect, and deaf to the monitions of our own consciences, if we had asked for less.

Having discharged what we believe to be a high public duty, in making this Memorial, we rest the subject, with all its bearings and consequences, with your Honorable Body, in the reasonable hope and confidence that you will do in the premises whatever you may deem right and proper.

In testimony of our respect for your Honorable Body, and in token of the solemn nature of this application, we have ordered this Memorial to be signed by our Grand Worthy Patriarch and our Grand Scribe, and to be further attested by our Seal of Office, and a copy sent greeting to each of your Honorable Houses.



Done in the town of Salisbury, in open Session of the Grand Division of the State of North Carolina, the 28th day of October, A. D. 1852.

L. BLACKMER, G. W. P.

A. M. GORMAN, G. S.

[Report made and laid on the table, and referred to committee on Judiciary. Reported, concurred in, and ordered to be printed.]

The Joint Select Committee, appointed to prepare and report a tabular statement of the population of North Carolina, as contained in the several counties, agreeably to the last census, and the federal population contained in each county,

REPORT.

That the committee, in connection with the clerk in the State Department, have examined all the returns made for each county, of the last census, and submit the accompanying tabular statement.

All of which is respectfully submitted,

GEO. D. BOYD, Chairman.

REPORT OF THE JUDICIARY COMMITTEE,

The committee on the Judiciary, to whom was referred the report of the joint select committee, appointed to prepare a tabular statement of the population of North Carolina, with instructions to enquire and report to the Senate, whether the Cherokee Indians, in the counties of Mason, Haywood and Cherokee, amounting in all to \$24, should be enumerated in the census of the State and counted in the apportionment of members, have had the same under consideration, and have instructed me to report that they should be so enumerated.

Respectfully submitted,

JNO. A. LILLINGTON,

One of the Committee.

TABULAR STATEMENT.

Counties.	Free.	Slave .	Federal.
Alamance,	8246	3194	10162
Alexander,	4672	543	5002
Anson,	6658	6833	10758
Ashe,	8182	595	8539
Beaufort,	8566	5249	11715
Bertie,	5658	7271	10021
Bladen,	5409	4358	8024
Brunswick,	3969	3302	5950
Buncombe,	11709	1716	12738
Burke,	5640	2132	6919
Cabarrus,	7057	2687	8669
Caldwell	5282	1203	6004
Camden,	3862	2187	5174
Carteret,	5318	1485	6209
Caswell,	7499	7770	12161
Catawba,	7293	1569	8234
Chatham,	12426	5984	16016
Cherokee,	6463	337	6665
Chowan,	3048	3673	5252
Cleaveland,	8636	1747	9684
Columbus,	4406	1503	5308
Craven,	8758	5909	12303
Cumberland,	13397	7217	17727
Currituck,	4789	2448	6257
Davidson,	12329	2992	14124
Davie,	5695	2171	6998
Duplin,	7505	6005	1108
Edgecombe,	8655	8547	13783
Forsythe,	9816	1353	10628
Franklin,	6206	5507	9510
Gaston,	5962	2112	7229
Gates,	4555	3871	6878
Granville,	11476	9873	17400
Greene,	3375	3191	5290

STATEMENT CONTINUED.

Counties.	Free.	Slave.	Federal.
Guilford,	16554	3786	18466
Halifax,	7635	8955	13008
Haywood,	6114		
Do Indians, }	710	418	7075
Henderson,	6434	927	6990
Hertford,	4426	3700	6646
Hyde,	5021	2628	6598
Iredell,	10578	4143	13064
Johnston,	9061	4705	11884
Jones,	2281	2757	3935
Lenoir,	3712	4116	6182
Lincoln,	5591	2056	6924
McDowell,	4984	1262	5741
Macon,	5726		
Do Indians, }	114	549	6169
Martin,	4855	3369	6876
Mecklenburg,	8441	5470	11723
Montgomery,	5099	1773	6163
Moore,	7366	1975	8551
Nash,	6599	4056	9033
New Hanover,	9087	8581	14236
Northampton,	6824	6511	10731
Onlow,	5172	3113	7040
Orange,	11809	5244	14955
Pasquotank,	5845	3105	7708
Perquimans,	4072	3251	6023
Person,	5884	4893	8820
Pitt,	6764	6636	10744
Randolph,	14188	1640	15172
Richmond,	5114	4704	7936
Robeson,	8461	4364	11079
Rockingham.	9166	5329	12363
Rowan,	10006	3852	12317
Rutherford,	10645	2905	12388
Sampson,	8900	5685	12311
Stanly,	5486	1436	6348
Stokes,	7413	1792	8488
Surry,	16446	2000	8146
Tyrrell,	3426	1702	4447
Union,	8070	1982	9259
Wake,	15485	9402	21126

STATEMENT CONTINUED.

Counties.	Free.	Slave.	Federal.
Warren,	5045	8870	10367
Washington,	3449	2215	4778
Watauga,	3271	129	3348
Wayne,	8467	5020	11479
Wilkes,	10597	1142	11642
Yancy,	7859	346	8067
*Yadkin,			9500
	581229	288425	751285

Federal Population, 751,285

Indians in Haywood and Macon deducted, 824

753,461

* The Free and Slave Population for Yadkin are included in that of Surry.

A BILL

TO

INCORPORATE THE BANK

OF THE

TOBACCONISTS OF NORTH CAROLINA.



RALEIGH:
SEATON GALES, PRINTER TO THE LEGISLATURE.

1852.

Introduced by Mr. Boyd. Read first time and passed

and ordered to be printed.]

A BILL

To incorporate the Bank of the Tobacconists of North Carolina.

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by authority*
3 *of the same,* That a bank shall be established at Law-
4 sonville, in the county of Rockingham, the capital
5 stock of which shall not exceed two hundred thousand
6 dollars, divided into shares of one hundred dollars
7 each; and for the purpose of receiving subscriptions
8 for said stock, books shall be opened on the 17th day of
9 February, 1853, or within twenty days thereafter, and
10 remain open for the space of sixty days, at Lawsonville,
11 under the superintendence of William P. Watt, Joseph
12 W. Neal, Joseph Holderby, Robert B. Watt, William
13 D. Bethell, Robert W. Lawson, J. W. McCain, or any
14 three of them; on the same day at Wentworth, under
15 the superintendence of John H. Dillard, John W. El-
16 lington, James Curree and James Irvin, or any three
17 of them; on the same day at Leaksville, under the
18 superintendence of 'Thos. Hamlin, jun., Jones W.
19 Barton, Anthony B. Johns, John M. Reynolds, and Ed-
20 ward T. Broadnax or any three of them; on the same
21 day at Madison, under the superintendence of William
22 L. Scales, A. M. Scales, jun., John D. Watkins, Jno.
23 M. Lindsay and William B. Carter, or any three of
24 them; on the same day at Reidsville, under the super-
25 intendence of 'Thomas Settle, sr., Robert P. Richard-
26 son, Edwin M. Powell, George D. Boyd, and Alfred
27 Reid, or any three of them; and at Yanceyville on
28 the same day, under the superintendence of Abisha
29 Slade, E. P. Jones, Calvin Vernon, Thomas D. John-
30 ston and N. M. Roane, or any three of them; and un-

31 der the superintendence of such other persons, as may
 32 be designated by the commissioners appointed to re-
 33 ceive subscriptions at Lawsonville.

II. *Be it further enacted*, That one-fifth of such shares
 2 shall be paid in gold or silver, or their equivalent, to
 3 the commissioners above named, or those appointed by
 4 them, at the time of subscribing; that another fifth
 5 shall be paid within sixty days thereafter; that another
 6 fifth shall be paid within 120 days thereafter; that another
 7 fifth shall be paid within three months after the time
 8 appointed for paying third instalment; and the remain-
 9 ing fifth shall be paid within three months after the
 10 time of paying the fourth instalment; and if any sub-
 11 scriber shall fail to pay any instalment at the time stipu-
 12 lated, he shall pay interest thereon, at the rates of six
 13 per cent per annum. and his stock shall be forfeited, and.
 14 may be sold by the bank, and the proceeds applied to
 15 the payment of the aforesaid deficient instalment, and
 16 he shall be held responsible for the same at the option of
 17 the bank, and the remainder, if any, of such sale, to be
 18 paid over to the subscriber: *Provided*, That, after the
 19 bank shall have been organized as hereinafter provided,
 20 the remaining unpaid instalments shall be paid to their
 21 directors, or their agents, and it shall be lawful for any
 22 subscriber to pay the whole of his subscription, or any
 23 greater part than is hereby required, before the time
 24 limited for the same, and every subscriber so paying in ad-
 25 vance shall have a discount at the rate of 6 per cent. per
 26 annum, computing the same from the time when pay-
 27 ment is made, to the time when it is required to be made.

III. *Be it further enacted*, That, when six hundred shares
 2 are subscribed, and the sum of thirty thousand dollars ac-
 3 tually paid to the commissioners aforesaid, the subscrib-
 4 ers to the said bank, their successors and assigns, shall
 5 be, and are hereby, created a body politic, in law and

6 in fact, by the name and style of the " Bank of the Tobac-
 7 conists of N. Carolina ;" and shall so continue until the
 8 the first day of January, eighteen hundred and eighty-
 9 two, and, by the name and style aforesad, they shall be
 10 able and capable in law to have, purchase, receive, pos-
 11 sess, enjoy, and retain to themselves, and successors,
 12 land, tenements, rents, hereditaments, goods, chattels and
 13 effects, and the same to grant, devise, alien and dispose
 14 of; to sue and be sued, plead and be impleaded, and be
 15 answered, defend and be defended in courts of record, or
 16 in any place whatsoever ; and also to make, have and
 17 use a common seal, and the same to break, alter or re-
 18 new at their pleasure ; and also to ordain, establish,
 19 and put into execution, such by-laws, ordinances and
 20 regulations as shall seem necessary and convenient
 21 for the government of said corporation, and for the
 22 making whereof general meetings of the stockholders
 23 shall be called in the manner hereinafter specified ; and
 24 generally to do and execute all acts, matters and things,
 25 which a corporation and body politic, in law, may or
 26 can lawfully execute, and be subject to the rules, regu-
 27 lations, restrictions and provisions hereinafter pre-
 28 scribed and declared.

IV. *Be it further enacted*, That, if it shall happen, when
 2 the books shall be opened as aforesaid, that a greater
 3 sum than two hundred thousand dollars shall be subscrib-
 4 ed by individuals, or by bodies corporate, it shall be law-
 5 ful for the commissioners to reduce such subscription
 6 according to a scale to be by them established for that
 7 purpose, to the aforesaid amount of two hundred thou-
 8 sand dollars : *Provided*, That no subscription of two
 9 shares or under shall be scaled, until all larger sub-
 10 scriptions shall first be reduced to an equality with
 11 them ; and if six hundred thousand dollars should not
 12 be subscribed within sixty days aforesaid, the commis-
 13 sioners may re-open the books of subscription twelve

14 months longer, unless the sum be sooner subscribed;
 15 and the directors, elected as hereinafter prescribed, shall
 16 be allowed to keep open the subscription books until the
 17 whole of the stock shall be taken, and close the same
 18 previous thereto at their discretion. The commissioners
 19 appointed to receive subscriptions at Lawsonville, Went-
 20 worth, Leaksville, Madison, and Reidsville, in the coun-
 21 ty of Rockingham, and at Yanceyville in Caswell coun-
 22 ty, and those who shall be appointed as herein pre-
 23 scribed at other places, shall pay over to the commis-
 24 sioners herein appointed to receive subscriptions at
 25 Lawsonville, all monies paid to them on stock subscrip-
 26 tion, immediately after receiving the same.

V. *Be it further enacted*, That as soon as six hundred
 2 shares shall be taken in stock of said bank, and thirty
 3 thousand dollars paid to the commissioners who keep
 4 the books, notice shall be given in some public newspa-
 5 per convenient thereto, or in some other public man-
 6 ner : and the meeting of the subscribers, to be held ten
 7 days at least after the notice, shall be called. If, at this
 8 meeting, those or their agents, who have a majority of
 9 votes, according to the rates hereinafter described, be
 10 present, (if not, another meeting shall be called,) they
 11 shall proceed to the election of seven directors, who
 12 shall take charge of the books and money in the hands
 13 of the commissioners, and immediately pursue the usual
 14 means to put the bank in operation. The said direc-
 15 tors shall remain in office until the time which shall be
 16 prescribed in the by-laws of the said corporation, for
 17 the annual meeting of the stockholders, or until their
 18 successors shall be appointed, and at the time which
 19 shall be prescribed as aforesaid in each year, or at any
 20 time thereafter, meetings of the stockholders shall be
 21 held at Lawsonville for the purpose of electing direc-
 22 tors, enquiring into the affairs of the institution, and

23 making such regulations as may be deemed fit and ne-
24 cessary.

VI. *Be it further enacted*, That the following rules
2 regulations and provisions, shall form, and be the funda-
3 mental articles of the constitution of the corporation.
4 A meeting of the stockholders cannot be had, unless
5 those who have a majority of the whole number of
6 votes be present ; and every act shall require the sanc-
7 tion of a majority of the votes which may be present.
8 Every stockholder holding one share, and not more than
9 two, shall be entitled to one vote ; for every two shares
10 above two and not exceeding ten, one vote ; for every
11 three shares above ten and not exceeding forty, one
12 vote ; and for every six shares above forty and not
13 exceeding one hundred, one vote ; for every ten shares
14 above one hundred and not exceeding two hundred,
15 one vote ; for every twenty shares above two hundred,
16 one vote. After the first meeting, no share or shares
17 shall confer a right of voting, which shall not have
18 been holden three calendar months previous to the day
19 of voting. Stockholders may vote at general meetings
20 and elections, by proxy, the proxy himself being a
21 stockholder. None but a stockholder, who is a citizen
22 of the State, shall be eligible as a director ; and the
23 stockholders shall appoint annually seven directors to
24 manage the bank ; and when appointed, they shall
25 choose one of the number to be President of the bank,
26 and shall manage the institution as shall seem best, un-
27 less otherwise directed by the stockholders. Not less
28 than three directors, of whom the President shall always
29 be one, shall constitute a board for the transaction of
30 business, except in case of absence or sickness of the
31 President, when he may, by writing, nominate any
32 other director to supply his place. If a vacancy in the
33 directory shall occur by death, resignation, or other-

34 wise, the remaining directors shall fill such vacancy
 35 until the succeeding annual meeting of the stockholders.
 36 A number of stockholders, not less than ten, who, to-
 37 gether, shall be owners of three hundred shares or up-
 38 wards, shall have power at any time to call a general
 39 meeting of the stockholders for purposes relative to the
 40 institution, giving at least twenty days notice in a pub-
 41 lic newspaper, and specifying the object or objects of such
 42 meeting. The directors shall annually elect such offi-
 43 cers as shall be deemed necessary to perform the busi-
 44 ness of the bank, and may remove them or either of
 45 them at pleasure. These officers shall be required to
 46 give bonds, with two or more securities, in sums not
 47 less than ten thousand dollars, with a condition for good
 48 behaviour and faithful performance of duty. They
 49 shall be allowed by the directors, such compensation for
 50 their services as shall be reasonable, but compensation
 51 to the President and directors shall be granted at the
 52 pleasure of the stockholders. The capital stock of said
 53 corporation shall be assignable and transferable, accor-
 54 ding to the rules which shall be instituted in that be-
 55 half, by the laws and ordinances of the same.

VII. *Be it further enacted*, That said corporation shall,
 2 neither directly nor indirectly, trade in anything
 3 except bills of exchange, promissory notes, and bonds
 4 expressing on the face of them to be negotiable and pay-
 6 able at said bank ; gold or silver bullion, or in the sale of
 7 goods really and truly pledged for money lent, and not
 8 redeemed in due time ; or in goods which shall be the
 9 produce of its lands, or in mint certificates, and the pub-
 10 lic debts of the United States and of this State : *Provi-*
 11 *ded*, The investment in such stock shall not exceed one-
 12 half of the capital stock of this bank. The said corpo-
 13 ration shall purchase and hold only such lands, tene-
 14 ments, rents and hereditaments, as shall be required for
 15 the convenient transaction of business, or shall have

16 been *bona fide* mortgaged to it by way of security, or
 17 conveyed to it in satisfaction of debts, previously con-
 18 tracted in the course of its dealings, or purchased at
 19 sale upon judgments which shall have been obtained
 20 for such debts.

VIII. *Be it further enacted*, That the said corporation
 2 shall not take more than six per cent. per annum, for or
 3 upon its loans or discounts, which interest may be re-
 4 ceived in advance at the time of discount, and the said
 5 bank, shall, at no time have in circulation, more than
 6 twice the amount of its capital actually paid in.

IX. *Be it further enacted*, That the bills, obligations,
 2 (obligatory,) and of credit, under the seal of said corpo-
 3 ration, which shall be made to any person or persons,
 4 shall be assignable by endorsement thereon, under the
 5 hand or hands, of such person or persons, and of his,
 6 her, or their assignee or assignees, and so as abso-
 7 lutely to transfer and vest the property therein, in each
 8 and every assignee or assignees successively; and to
 9 enable such assignee or assignees, to bring and main-
 10 tain an action thereupon, in his, her, or their name or
 11 names, all bills or notes, which may be issued by
 12 order of the said corporation, signed by the President,
 13 and countersigned by the cashier, promising the pay-
 14 ment of money to any person or persons, his, her or
 15 their orders, or to bearer, though not under the seal of
 16 said corporation, shall be binding and obligatory on the
 17 same in like manner, and with the same force and effect,
 18 as upon any private person or persons, that is to say,
 19 those which shall be payable to any person or persons,
 20 his, her, or their order, shall be assignable by endorse-
 21 ment in like manner, and with like effect, as foreign
 22 bills of exchange now are; and those which are paya-
 23 ble to bearer, shall be negotiable and assignable by de-
 24 livery only.

X. *Be it further enacted*, That no note shall be issued
 2 by said bank under the denomination of three dollars,
 3 and that, if any person or persons holding any note or
 4 notes of said bank shall present the same for payment,
 5 shall be refused, the said note or notes shall draw in-
 6 terest at the rate of twelve per cent per annum, from
 7 the time of said demand, and the said bank shall pay
 8 the same, any law to the contrary notwithstanding;
 9 and the holder of said note or notes of said bank, not
 10 paid on demand, may bring an action of assumpsit
 11 against one or all of the directors who may have con-
 12 sented to issue more than twice the capital stock paid
 13 in, in case the bank be unable to pay the amount:
 14 *Provided, always*, That, if any note or notes of the
 15 said bank shall be presented for payment by or for any
 16 bank or branch, or agency of any bank, either directly
 17 or indirectly, it shall be lawful to pay the same or any
 18 part thereof, with the note or notes of the bank, by or
 19 for which the demand shall have been made, whether
 20 made at the instance of the principal bank, its branches,
 21 or agency, without regard to the place where the same
 22 may have been issued, or may be payable; or holders of
 23 notes of said bank for payment, shall, if required, state on
 24 oath before a justice of the peace, whether the demand was
 25 made for any bank, or branch, or agency, of any bank,
 26 either directly or indirectly, or in case of refusing, shall
 27 not be entitled to recover any interest whatever on any
 28 note of said bank, for which payment may be refused.

XI. *Be it further enacted*, That the directors of said
 2 bank may declare semi-annual dividends of the profits
 3 thereof: *Provided*, That no dividend shall be declared
 4 until the whole amount of stock subscribed shall be
 5 paid in gold or silver, or their equivalent; and if at any
 6 time, more than the real profits are divided, the direct-
 7 ors thereto assenting shall be responsible, in their pri-
 8 vate capacities, to creditors who have claims against
 9 the said institution

XII. *Be it further enacted*, That, in case of any insolvency of the bank hereby created, or ultimate inability to pay, the individual stockholders shall be liable to creditors, in sums double the amount of stock by them respectively held in said corporation.

XIII. *Be it further enacted*, That the officer at the head of the treasury department of the State shall be furnished once in six months with a statement of the amount of the capital stock of said corporation, and the debts due the same; of the moneys deposited therein; of the notes in circulation; of the cash on hand; and shall have a right to inspect such general accounts in the books of the bank, as shall relate to said statement: *Provided*, That this shall not be construed to a right of inspecting the accounts of any private individual with the bank, except the directors; and it shall be the duty of the president of the bank, in the first week of December, in each and every year, to transmit to the General Assembly a full statement of the condition of the bank, exhibiting the amount of capital, notes in circulation, debts due to other banks, and to what banks, deposits, and all other particulars necessary to explain the debit side of the account; also, the specie on hand, notes on other banks, and what bank, bills of exchange, debts or bonds and notes discounted, specifying, in one item, the amount due from stockholders, and in another, the amount due from directors, not, however, using any person's name, in either case; and the real estate.

XIV. *Be it further enacted*, That, if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting, any bill or note, issued by order of the President and Directors of the Bank of the Tobacconists of North Carolina, or any order or check upon said bank or cor-

{ 8 poration, or the cashier thereof; or shall falsely alter, or
 9 cause or procure to be falsely altered; or willingly aid or
 10 assist in falsely altering any bill or note issued by the
 11 order of the said corporation, or any order or check on
 12 said bank, or the cashier thereof; or shall pass, or re-
 13 ceive with intent to pass, utter or publish as true, any
 14 false, forged or counterfeited check or order, upon the
 15 said bank, or the cashier thereof, or falsely altered bill
 16 or note issued by order of said bank, knowing the same
 17 to be falsely altered, with intent to defraud said corpo-
 18 ration, or any other body politic, or person or persons,
 19 every such person shall be deemed guilty of felony, and,
 20 being thereof convicted, by due course of law, shall be
 21 imprisoned not exceeding two years, and fined not ex-
 22 ceeding five thousand dollars.

XV. *Be it further enacted*, That the president or cashier
 2 of the said bank shall annually pay into the treasury of
 3 the State twenty-five cents on each share of said capital
 4 stock, which may have been subscribed for and paid in;
 5 and the first payment of said tax shall be made twelve
 6 months after said bank shall have commenced opera-
 7 tions.

XVI. *Be it further enacted*, That, if any President,
 2 Cashier, Clerk, or other officer of the aforesaid bank,
 3 shall, knowingly, willingly, and with intent to deceive,
 4 make, or cause to be made, or connive at making, any
 5 false return, statement, or exhibit of the condition of
 5 the bank, either to the Treasurer of the State, to the
 7 Legislature, or the Board of Directors of the bank, or
 8 to the stockholders, or to any other person or persons,
 9 that may be authorised by the Legislature, the President,
 10 Director, Cashier, Clerk, or other officer, and all per-
 11 sons aiding or abetting in such deception or false return,
 12 shall be liable to be indicted for a misdemeanor in the
 13 Supreme Court, and, upon conviction, shall be fined at

14 the discretion of the Court, and imprisoned not exceed
15 ing one year.

XVII. *Be it further enacted*, That if a director or ar
2 other officer, agent or servant of said corporation, sha
3 embezzle any of the funds belonging to said bank, with
4 the intent to defraud said corporation, or make false en-
5 tries upon the books of said bank, with intent to de-
6 fraud said corporation, or any other persons whatsoever,
7 said officer, agent or servant, shall be held and deemed
8 guilty of felony, and upon conviction thereof, by due
9 course of law, shall be punished by fine at the discre-
10 tion of the court, and imprisoned not exceeding five
11 years.

XVIII. *Be it further enacted*, That, whenever the Le-
2 gislature may be of the opinion that the charter of the
3 corporation hereby granted shall have been violated, it
4 may be lawful, by joint resolution, to direct the Attor-
5 ney General, with such assistant counsel as the Gover-
6 nor or Legislature may think proper to engage, to issue a
7 writ of *scire facias*, returnable before the Judges of the
7 supreme court, calling upon said corporation to show
8 cause why the charter hereby granted shall not be for-
9 feited; subject to the same proceedings as are now pre-
10 scribed by law in cases of other corporations.

XIX. *Be it further enacted*, That the cashier shall keep
2 a book, to contain the proceedings of the board of di-
3 rectors, the names of those present, the day and date
4 of each meeting, and shall record the yeas and nays on
5 any question, when asked for by any director. This
6 book shall be evidence in Courts of Justice, and on en-
7 tering on the discharge of his duties, the cashier shall
8 take the following oath, before some justice of the
9 peace, by whom it shall be returned to the office of the

10 the clerk of the County Court: "I, A. B., do solemnly
 11 swear to keep a just and true record, without altera-
 12 tions or erasures, of the transactions of the board of
 13 directors, in a book kept by me for that purpose."

XX. *Be it further enacted*, That this act shall be in
 2 force, from, and after its ratification.

[Ordered to be printed.]

A REPORT
FROM THE COMMITTEE ON
INTERNAL IMPROVEMENTS.

The Committee on Internal Improvements, to whom was referred a "Bill to incorporate the Charleston, Blue Ridge and Chattanooga Railroad company, to construct a railroad from the Tennessee river, in the county of Macon, through the county of Cherokee, to the line of the State of Tennessee, in the direction of Chattanooga, have had the same under consideration, and have instructed the undersigned to report the bill back to the Senate, with an amendment thereto, marked A, as an additional section, which makes provision for the State to extend the "North Carolina Railroad," to intersect the said Charleston, Blue Ridge and Chattanooga Railroad, at the Tennessee river, with the privilege of having a depot at that place, provided the State should, at a future period, desire to avail herself of the benefits resulting from such extension and connexion. The bill requires no appropriation on

the part of the State ; and as the project is calculated to benefit the extreme Western counties, and thereby develop their resources, without, in any manner, injuring any contemplated improvements of this State; and, if the North Carolina Railroad should be extended to that point, will, it is believed, be the means of furnishing a more direct route, by Railroad, from Memphis and Chattanooga, in the Valley of the Mississippi, to the ports of Wilmington, Beaufort and Norfolk, than any that can be established, the Committee respectfully recommend its passage.

WM. H. THOMAS,
Chairman.

A BILL
TO INCORPORATE

THE

PEOPLE'S BANK

IN THE

TOWN OF NEWBERN.

RALEIGH:

SEATON GALES, PRINTER TO THE LEGISLATURE

1852:

(INTRODUCED BY MR. WASHINGTON.—Passed the 1st reading, and ordered to be printed.)

A BILL

To incorporate the People's Bank in the town of Newbern, in the county of Craven.

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by the author-*
3 *ity of the same,* That a bank shall be established in the
4 town of Newbern, the capital stock of which shall not
5 exceed four hundred thousand dollars, divided into
6 shares of one hundred dollars each; and for the purpose
7 of receiving subscriptions for said stock, books shall be
8 opened on the first day of February, one thousand eight
9 hundred and fifty-three, or within ten days after the
10 ratification hereof, and remain open for the space of
11 sixty days at Newbern, under the superintendence of J.
12 M. F. Harrison, John N. Washington, James W. Car-
13 mer, Wm. C. Whitford, J. C. Justice, John D. Flanner,
14 Wm. P. Moore, and Oliver S. Dewey, or a majority of
15 them; at Beaufort under the superintendence of M. F.
16 Arendell, Benj. Leecraft, David W. Whitehurst, Geo.
17 Dill, and James Rumley; at Kinston, under the superin-
18 tendence of John C. Washington, R. W. King, H.
19 W. Blount, and Walter Dunn, Jun.; at Goldsboro', un-
20 der the superintendence of W. S. G. Andrews, Richard
21 Washington, R. J. Gregory, Wm. K. Lane; at
22 Washington, under the superintendence of B. F.
23 Hanks, Thos. Sparrow, and John Carmer; at Jackson-
24 ville, under the superintendence of Geo. Ward, A. J.
25 Murrell, Owen Huggins, Jasper Etheredge, and John
26 A. Averett; at Trenton, unner the superintendence of
27 Wm. P. Ward, Joseph Whitty, Benj. Askew, John
28 R. Shackelford, and Roscoe Barrus; and at the same
29 time at such other places, and under the superintend-
30 ence of such other persons, as may be designated by
31 the Commissioners appointed to receive subscriptions
32 at Newbern.

II. *Be it further enacted*, That one-fifth of such shares, shall be paid in gold or silver, or their equivalent, to the Commissioners above named, or those appointed by them at the time of subscribing; that another fifth shall be paid within sixty days thereafter; that another fifth shall be paid within one hundred and twenty days thereafter; that another fifth shall be paid within three months after the time appointed for paying the third instalment; and the remaining fifth shall be paid within three months after the time of paying the fourth instalment; and if any subscriber shall fail to pay any instalment at the time stipulated, he shall pay interest thereon, at the rate of six per cent. per annum, and his stock shall be forfeited and may be sold by the bank, and the proceeds applied to the payment of the aforesaid deficient instalment, and he shall be held responsible for the same at the option of the bank, and the remainder, if any, of such sale, to be paid over to the subscriber: *Provided* that, after the bank shall have been organized, as hereinafter provided, the remaining unpaid instalments shall be paid to the directors or to their agents; and it shall be lawful for any subscriber to pay the whole of his subscription, or any greater part than is hereby required, before the time limited for the same, and every subscriber so paying in advance, shall have a discount at the rate of six per cent. per annum on such advance, computing the same from the time when payment is made to the time when it is required to be made.

III. *Be it further enacted*, That, when five hundred shares are subscribed, and the sum of twenty-five thousand dollars is actually paid to the commissioners aforesaid, the subscribers to the said bank, their successors and assignees, shall be, and are hereby, created, a body politic, in law and in fact, by the name and style of the "People's Bank of Newbern," and shall so continue until the first day of January, one thousand eight hun-

9 dred and seventy-nine, and by the name and style afore-
 10 said, they shall be and are hereby made able and capa-
 11 ble, in law, to have, purchase, receive, possess, enjoy
 12 and retain to themselves, and successors, lands, tene-
 13 ments, rents, hereditaments, goods, chattels and effects,
 14 and the same to grant, demise, alien and dispose of ; to
 15 sue and to be sued, implead and be impleaded, answer
 16 and be answered, defend and be defended, in Courts of
 17 Record, or in any place whatsoever ; and also to make,
 18 have and use, a common seal, and the same to break,
 19 alter and renew at their pleasure ; and also to ordain, es-
 20 tablish, and put into execution, such by-laws, ordinances
 21 and regulations as shall seem necessary and convenient
 22 for the government of said corporation, and, for the mak-
 23 ing whereof, general meetings of the stockholders may
 24 be called in the manner hereinafter specified ; and gene-
 25 rally to do and execute all acts, matters and things
 26 which a corporation or body politic, in law, may or can
 27 lawfully execute, and be subject to the rules, regula-
 28 tions, restrictions and provisions hereinafter prescribed
 29 and declared.

IV. *Be it further enacted*, That, if it shall happen, when
 2 the books shall be opened, as aforesaid, thht a greater
 3 sum than four hundred thousand dollars shall be sub-
 4 scribed by individuals or by bodies corporate, it shall be
 5 lawful for the commissioners to reduce such subscrip-
 6 tions, according to a scale to be by them established for
 7 that purpose, to the aforesaid amount of four hundred
 8 thousand dollars : *Provided*, That no subscription of
 9 two shares or under, shall be scaled, until all larger
 10 subscriptions shall first be reduced to an equality with
 11 them : and if five hundred shares shall not be sub-
 12 scribed within the sixty days aforesaid, the commis-
 13 sioners may keep open the books of subscription twelve
 14 months longer, unless the same be sooner subscribed ;
 15 and the directors elected, as hereinafter prescribed, shall

16 be allowed to keep open the subscription books until the
 17 whole of the stock shall be taken, and open and close
 18 the same previous thereto, at their discretion. The
 19 commissioners appointed to receive subscriptions at
 20 Beaufort, Kinston, Goldsboro', Washington, Onslow
 21 and Trenton, and those who shall be appointed, as here-
 22 in prescribed, at other places, shall pay over to the com-
 23 missioners appointed herein to receive subscriptions at
 24 Newbern, all monies paid to them on stock subscription
 25 immediately after receiving the same.

V. *Be it further enacted*, That as soon as five hundred
 2 shares shall be taken in the stock of said bank, and
 3 twenty-five thousand dollars paid to the commissioners
 4 who keep the books, notice shall be given in the Ga-
 5 zette published in the town of Newbern, (or in some
 6 other public manner,) and a meeting of the subscribers,
 7 to be held ten days at least after the date of the notice,
 8 shall be called. If, at this meeting, those or their
 9 agents, who have a majority of votes, according to the
 10 rates hereinafter described, be present, (if not, another
 11 meeting shall be called,) they shall proceed to the elec-
 12 tion of seven directors, who shall take charge of the
 13 books and money in the hands of the commissioners,
 14 and immediately pursue the usual means to put the bank
 15 in operation. The said directors shall remain in office
 16 until the time which shall be prescribed in the by-laws
 17 of the said corporation, for the annual meeting of the
 18 stockholders, or until their successors shall be appoint-
 19 ed; and at the time which shall be prescribed as afore-
 20 said, in each year, or at any time thereafter, meetings
 21 of the stockholders shall be held in the town of New-
 22 bern, for the purpose of electing directors, inquiring into
 23 the affairs of the institution, and making such regula-
 24 tions as may be deemed fit and necessary,

VI. *Be it further enacted*, That the following rules,
 2 regulations and provisions, shall form and be the funda-

3 mental articles of the constitution of the corporation.
 4 A meeting of the stockholders cannot be held unless
 5 those who have a majority of the whole number of
 6 votes, be present. Every stockholder, holding one share
 7 and not more than two, shall be entitled to one vote ;
 8 for every two shares above two, and not exceeding ten,
 9 one vote ; for every three shares above ten, and not ex-
 10 ceeding forty, one vote ; for every six shares above
 11 forty, and not exceeding one hundred, one vote ; for
 12 every ten shares above one hundred, and not exceeding
 13 two hundred, one vote ; for every twenty shares above
 14 two hundred, one vote. After the first meeting, no
 15 share or shares shall confer a right of voting, which
 16 shall not have been holden three calendar months pre-
 17 vious to the day of voting. Stockholders may vote at
 18 general meetings and elections by proxy, the proxy
 19 himself being a stockholder. None but a stockholder,
 20 who is a resident of the State, shall be eligible as a di-
 21 rector ; and the stockholders shall appoint, annually,
 22 seven directors to manage the bank ; and, when ap-
 23 pointed, they shall choose one of their number to be
 24 president of the bank ; and shall manage the institution
 25 as shall seem best, unless otherwise directed by the
 26 stockholders. Not less than three directors, of whom
 27 the president shall be one, shall constitute a board for
 28 the transaction of business, except in case of ab-
 29 sence, or sickness of the president, when he may, by
 30 writing, nominate any other director to supply his place.
 31 If a vacancy in the directory shall occur, by death, re-
 32 signation or otherwise, the remaining directors shall fill
 33 such vacancy, until the succeeding annual meeting of
 34 the stockholders. A number of stockholders, not less
 35 than ten, who, together, shall be owners of three hun-
 36 dred shares, or upwards, shall have power, at any
 37 time, to call a general meeting of the stockholders for
 38 purposes relative to the institution, giving at least twen-
 39 ty days notice in a public gazette, specifying the object

40 or objects of such meeting. The directors shall annu-
 41 ally elect such officers as may be deemed necessary to
 42 perform the business of the bank, and may remove them,
 43 or either of them, at pleasure. Those officers shall be re-
 44 quired to give bonds, with two or more securities, in sums
 45 not less than ten thousand dollars, with a condition for good
 46 behavior and faithful performance of duty. They shall
 47 be allowed, by the directors, such compensation for their
 48 services as shall be reasonable; but compensation to
 49 the President and Directors shall be granted at the
 50 pleasure of the stockholders. The stock of said corpo-
 51 ration shall be assignable and transferable according to
 52 the rules which shall be instituted, in that behalf, by
 53 laws and ordinances of the same.

VII. *Be it further enacted*, That the said corporation
 2 shall, neither directly nor indirectly, trade in anything,
 3 except bills of exchange, promissory notes, and bonds
 4 expressing on the face of them, to be negotiable and
 5 payable at said bank; gold or silver bullion, or in the
 5 sale of goods, really and truly pledged for money lent,
 6 and not redeemed in due time, or in goods which shall
 7 be the produce of its lands, or in mint certificates, or in
 8 the public debts of the United States. *Provided*, the
 9 investment in such stock shall not exceed one-half of
 10 the capital stock of the bank. The said corporation
 11 shall purchase and hold, only such lands, tenements,
 12 rents and hereditaments, as shall be required for the
 13 convenient transaction of its business, or shall have
 14 been *bona fide* mortgaged to it by way of security, or
 15 conveyed to it in satisfaction of debts, previously con-
 16 tracted in the course of its dealings, or purchased at
 17 sale upon judgments which shall have been obtained
 18 for such debts.

VIII. *Be it further enacted*, That the said corporation
 2 shall not take more than six per cent. per annum, for or

3 upon its loans and discounts, which interest may be re-
 4 ceived in advance at the time of discount, and the said
 5 bank shall, at no time, have in circulation, more than
 6 twice the amount of its capital actually paid in.

IX. *Be it further enacted*, That the bills obligatory,
 2 and of credit, under the seal of the said corporation,
 3 which shall be made to any person or persons, shall
 4 be assignable by endorsement thereon, under the
 5 hand or hands of such person or persons, and of his,
 6 her, or their assignee or assignees, and so as abso-
 7 lutely to transfer and vest the property therein, in each
 8 and every assignee or assignees successively, and to
 9 enable such assignee or assignees, to bring and main-
 10 tain an action thereupon, in his, her, or their name or
 11 names; and bills or notes, which may be issued by
 12 order of the said corporation, signed by the President,
 13 and countersigned by the cashier, promising the pay-
 14 ment of money to any person or persons, his, her or
 15 their orders, or to bearer, though not under the seal of
 16 said corporation, shall be binding and obligatory on the
 17 same; in like manner, and with the like force and effect,
 18 as upon any private person or persons: that is to say,
 19 those which shall be payable to any person or persons,
 20 his, her, or their order, shall be assignable by endorse-
 21 ment, in like manner, and with like effect, as foreign
 22 bills of exchange now are; and those which are paya-
 23 ble to bearer, shall be negotiable and assignable by de-
 24 livery only.

X. *Be it further enacted*, That if any person or persons:
 2 holding any note or notes of said bank, shall present
 3 the same for payment, and payment shall be refused, the
 4 said note or notes shall draw interest at the rate of
 5 twelve per cent. per annum, from the time of said de-
 6 mand; and the holder of said note or notes of said

7 bank, not paid on demand, may bring an action of
 8 assumpsit against one or all of the directors who may
 9 have consented to issue more than twice the capital
 10 stock paid in, in case the bank be unable to pay the
 11 amount.

XI. *Be it further enacted*, That the directors of said
 2 bank may declare semi-annual dividends of the profits
 3 thereof: *Provided*, That no dividend shall be declared
 4 until the whole amount of stock subscribed shall be paid,
 5 in gold and silver, or their equivalent ; and if, at any
 6 time, more than the real profits are divided, the direc-
 7 tors assenting thereto shall be responsible, in their pri-
 8 vate capacities, to creditors who have claims against the
 9 said institution.

XII. *Be it further enacted*, That, in case of any insol-
 2 vency of the bank hereby created, or ultimate inability
 3 to pay, the individual stockholders shall be liable to
 4 creditors, in sums double the amount of stock by them
 5 respectively held in said corporation.

XIII. *Be it further enacted*, That the officer at the head
 2 of the treasury department of the State shall be fur-
 3 nished once in six months with a statement of the
 4 amount of the capital stock of said corporation, and the
 5 debts due the same ; of the moneys deposited therein ;
 6 of the notes in circulation ; and of the cash on hand ; and
 7 shall have a right to inspect such general accounts in
 8 the books of the bank, as shall relate to said statement :
 9 *Provided*, That this shall not be construed to a right of
 10 inspecting the accounts of any private individual with
 11 the bank, except the directors ; and shall also be fur-
 12 nished, once in twelve months, with the names of the
 13 stockholders : And it shall be the duty of the pre-
 14 sident of the bank, in the first week of Decem-

ber, in each and every year. to transmit to the General Assembly a full statement of the condition of the bank, exhibiting the amount of capital, notes in circulation, debts due to other banks, and to what banks, deposits, and all other particulars necessary to explain the debit side of the account; also, the specie on hand, notes on other banks, and what banks, bills of exchange, debts or bonds and notes discounted, specifying, in one item, the amount due from stockholders, and in another, the amount due from directors, not, however, using any person's name, in either case; and the real estate.

XIV. *Be it further enacted*, That, if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting, any bill or note in imitation of, or purporting to be a bill or note issued by order of the President and Directors of the People's Bank of Newbern, or any order or check on said bank or corporation, or the cashier thereof; or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering any bill or note issued by the order of the said corporation, or any order or check on said bank, or the cashier thereof; or shall pass, or receive with intent to pass, utter or publish as true, any false, forged or counterfeited bill or note purporting to be a bill or note issued by order of said corporation; or any false, forged, or counterfeited check or order upon the said bank, or any cashier thereof, knowing the same to be falsely forged or counterfeited; or shall pass or receive with intent to pass or publish as true, any falsely altered check or order on said bank, or any cashier thereof; or any falsely altered bill or note issued by order of said bank, knowing the same to be falsely altered, with intent to defraud said corporation, or any other body politic, or person or persons, every such

26 person shall be deemed guilty of felony, and, being
 27 thereof convicted, by due course of law, shall be im-
 28 prisoned not exceeding two years, and fined not ex-
 29 ceeding five thousand dollars.

XV. *Be it further enacted*, That the president or cashier
 2 of the said bank shall annually pay into the treasury of
 3 the State twenty-five cents on each share of said capital
 4 stock, which may have been subscribed for and paid in;
 5 and the first payment of said tax shall be made twelve
 6 months after said bank shall have commenced opera-
 7 tions.

XVI. *Be it further enacted*, That, if any President,
 2 Cashier, Clerk, or other officer of the aforesaid bank,
 3 shall, knowingly, willingly, and with intent to deceive,
 4 make, or cause to be made, or connive at making, any
 5 false return, statement, or exhibit of the condition of
 6 the bank, either to the Treasurer of the State, to the
 7 Legislature, or the Board of Directors of the bank, or
 8 to the stockholders, or to any other person or persons,
 9 that may be authorised by the Legislature, or by the
 10 stockholders, to receive the same, such President, Di-
 11 rector, Cashier, Clerk, or other officer, and all per-
 12 sons aiding or abetting in such deception or false return,
 13 shall be liable to be indicted for a misdemeanor in the
 14 Superior Courts, and, upon conviction, shall be fined at
 15 the discretion of the Court, and imprisoned not exceed-
 16 ing one year.

XVII. *Be it further enacted*, That if a director or any
 2 other officer, agent or servant of said corporation, shall
 3 embezzle any of the funds belonging to said bank, with
 4 the intent to defraud said corporation; or make false en-
 5 tries upon the books of said bank, with intent to de-
 6 fraud said corporation, or any other person whatsoever,

7 said officer, agent or servant, shall be held and deemed
8 guilty of felony, and upon conviction thereof, by due
9 course of law, shall be punished by fine at the discre-
10 tion of the court, and imprisoned not exceeding five
11 years.

XVIII. *Be it further enacted*, That, whenever the Le-
2 gislature may be of the opinion that the charter of the
3 corporation hereby granted shall have been violated, it
4 may be lawful, by joint resolution, to direct the Attor-
5 ney General, with such assistant counsel as the Gover-
6 nor or Legislature may think proper to engage, to issue a
7 writ of *scire facias*, returnable before the Judges of the
8 supreme court, calling upon said corporation to show
9 cause why the charter hereby granted shall not be for-
10 feited; subject to the same proceedings as are now pre-
11 scribed by law in cases of other corporations.

XIX. *Be it further enacted*, That the cashier shall keep
2 a book, to contain the proceedings of the board of di-
3 rectors, the names of those present, the day and date
4 of each meeting, and shall record the yeas and nays upon
5 any question, when asked for by any director. This
6 book shall be evidence in any court of justice, and, on en-
7 tering on the discharge of his duties, the cashier shall
8 take the following oath, before some justice of the
9 peace, by whom it shall be returnable to the office of
10 the clerk of the County Court: "I, A. B., do solemnly
11 swear to keep a just and true record, without altera-
12 tions or erasures, of the transactions of the board of
13 directors, in a book kept by me for that purpose."

XX. *Be it further enacted*, That nothing herein contain-
2 ed shall authorise the corporation hereby created to is-
3 sue any note for a sum less than three dollars; but all
4 such issues for a less sum than three dollars shall be un-

5 lawful, and shall subject the parties issuing them to all
6 the penalties already provided by law.

XXI. *Be it further enacted*, That this act shall be in
2 force, from and after its ratification.

[SENATE DOCUMENT, No. 20.]

[140]

REPORT

OF THE

COMMISSIONERS

FOR THE

DEAF, DUMB AND BLIND.



RALEIGH:

SEATON GALES, PRINTER TO THE LEGISLATURE.

1852.

The President and Directors of the North Carolina
Institute for the Education of the Deaf and
Dumb, respectfully report :

REPORT

In the Spring of 1851, the members of the board, then in office, resigned, and the present members of the board were appointed by his Excellency, the Governor, to fill the vacancies.

In entering upon their duties, the Board became satisfied that the prosperity of the institution, as well as a proper regard for the wishes of the Legislature, required that they should endeavor, as far as possible, to carry out the recommendations of the joint select committee appointed at the last session.

The first matter which engaged their attention, was the arrangement of work shops for carrying on the mechanical branches. The increasing number of pupils rendered it impossible to appropriate any more room in the main building than was already occupied for this purpose, and this was found to be very inconvenient and entirely insufficient for any practical benefit. It was determined, therefore, at once to erect a building for this department, which has been done. The building is of brick, plain and substantial, and it is believed, sufficiently large for the present purposes of the institution, at a cost of 1,900.

The Board also directed such repairs and alterations to be made as were found necessary to the preservation of the buildings, or the security and comfort of the pupils.

The attention of the Board was early called to the subject of a department for the instruction of the blind. As it was evidently the intention of the Legislature, that this important class of our fellow-citizens should share the bounty of the State, the Board determined to carry their intentions into effect, at the earliest possible period, and at the commencement of the seventh session, an arrangement was made with the Principal for opening this department,

upon the terms proposed by him to the joint select committee of the last session, and before proposed to him by the Literary Board. An additional expense was rendered necessary for furnishing the department with the necessary books, maps, musical instruments, &c. As yet, the Board have found great difficulty in making up the number guarantied to the principal, of such as are of proper age and condition to receive the benefits of the institution. There are numbers of blind childred of the proper age in almost every section of the State, but so dependent are they, and so hopeless in their condition, considered by parents and friends, that it has been found, in many cases, impossible to prevail upon these parents and friends to permit these children to avail themselves of the benefit of the institution. We are confident, however, that the success of those who are already here, will soon dissipate their groundless apprehensions, and render many others eager to avail themselves of the bounty of the State. Three excellent and accomplished teachers are now employed by the Principal, and the Board are prepared to insure a good education in this department, to as many as may apply, or the State may make provision for.

During the past year, two of the pupils, in the deaf mute department, have died; but, while we regret this providence, we cannot but feel thankful, that since its foundation, the pupils and others connected with the institution, have enjoyed an unusual degree of health.

The increase of pupils in the deaf and dumb department, the institution of the blind department, the construction of the work shops and other extraordinary expenses, have exhausted the balance of the annual appropriations to the credit of the Board; and unless the Board are directed to limit the number, to be received hereafter, it will probably be necessary to make some addition to the annual appropriation.

The experience of the last session has also shown that very few if any more pupils can be accommodated, until

the buildings are enlarged. At times during the last session, not a room in the house, or a bed, was unoccupied; and at the present time, the Principal and his wife, and six children, are limited to two small rooms. It is very inconvenient and objectionable for the blind to be placed in the same dormitories with the deaf mutes; and yet, it is impossible, at present, to make any other arrangement. The Board, therefore, earnestly recommend that an addition be made to the wings, to secure separate sitting rooms and dormitories for the deaf mutes and the blind, and that a separate building be erected near the main building, for the family of the Principal, teachers and visitors.

The Board also recommend to your honorable body, to amend the act passed in January, 1849, so as to extend the time for which the counties are to be responsible for \$75 for each pupil, to *seven* years, the term of instruction at the institution, and, also, to include the Blind in this provision.

The Board are aware that some dissatisfaction exists, and attempts have been made to prejudice the institution, on account of the introduction of mechanical branches as a part of the system of education. After the action of the former Board of Directors, which received the pointed approbation of the Joint Select Committee, and the implied approval of the Legislature, this Board did not feel themselves at liberty to consider the continuance of these branches at the institution, as an open question, and they now feel it a duty to express their entire conviction, that in order to render the institution a blessing to the pupil and the State, it is of vital importance that every pupil should be afforded an opportunity of acquiring some useful trade, by which he may be enabled to support himself after leaving the institution.

We think the arrangement of the former Board, by which they were to furnish the machinery and tools, and the principal to find the material, employ workmen as instructors, and carry on the shops at his own risk of profit or loss, was the best possible one to secure to the pupil efficient practical benefit, and protect the State from a heavy

expense. The attention of the Deaf Mute Pupils has been principally turned to printing, as being the pursuit best adapted to their habits and condition, and thus far, they have been rewarded by the most gratifying success. One of the pupils, who graduated at the close of the last session, is now employed as a journeyman in the office at the institution. No restrictions were placed upon the principal, as to the amount of work he should do, if the Public chose to employ him, but he has never been permitted, with the consent or approbation of the Board, to bid for public printing, solicit work from individuals, or in any way to interfere with the work of other presses in the State. It is true, a considerable amount of job work has been done at this office, but it is equally true, that by far the larger portion of it would have been done out of the State, but for the establishment of this office. The paper which is now published at this office, is published without any expense to the institution, or the use of any property belonging to the institution; the types, power press, and small steam engine used in printing it, are all the individual property of the principal.

The press and engine are used for the benefit of the institution without charge, and the engine is connected with the machinery for the manufacture of brooms by the blind, with a corn mill for grinding meal, and a circular saw for sawing wood.

If, however, the course of the Board in this respect does not meet with the approbation of the Legislature, they are ready to conform to the views of your honorable body, and will either abolish the instruction in mechanical branches at the institution, or have it carried on at the expense of the State, as you may be pleased to direct.

The statement herewith submitted, marked A, will show the total amount of receipts and disbursements on account of the Institution, from November 1st 1850, to the commencement of the present session.

During the last two years, the extraordinary scarcity of provisions, and the corresponding price has been such, that

the Board felt it to be their duty to increase the compensation allowed the principal, for the board, tuition, &c., of the deaf mute pupils, to \$175 each, and at the organization of the Blind Department, in consideration of the principal taking charge of the blind department, without any additional compensation as principal, the Board agreed to employ a speaking teacher to assist in the deaf mute department. The compensation for board, &c. for the deaf mutes, is fixed annually, and intended to protect the principal and the State from loss. The abundant crops of the present season give us reason to expect that we shall be able this year to reduce this allowance again largely. Statement B. contains a list of the pupils at the institution from the commencement to the present session.

In conclusion, the Board respectfully request that this report may be referred to a Committee of your honorable body, who may visit the institution, examine the books and vouchers of the Board, the condition, progress and wants of the institution, and report to your honorable body, and this Board will take pleasure in affording them every information and assistance in their power.

By order of the Board,

Respectfully submitted,

E. P. GUION,

President of Board.

LIST OF PUPILS

Who have been in the Institution from its foundation to
July 1st, 1852.

No.	Names of Pupils.	Residence.	When admt'd.	Age.
1	Askew, William J	Warren,	7 Ses.	
2	Baucom, Delaney	Wake,	1 do	28
3	Barnes, David K	Nash,	2 do	24
4	Berry, William (blind)	Guilford,	7 do	18
5	Boren, Cyrus	Do	1 do	20
6	Browning, David (blind)	Orange,	7 do	14
7	Bushall, Sarah (blind)	Carteret,	7 do	14
8	Cameron, Isabell	Cumberland,	1 do	17
9	Cloutz, Jacob	Buncombe,	2 do	22
10	Clinard, William	Davidson,	6 do	9
11	Cooke, Joseph W	Northampton,	1 do	21
12	Crow, Lazarus R	Cumberland,	4 do	10
13	Dodge, Mary H (blind)	Surry,	7 do	19
14	Duckworth, Nancy J E	Burke,	6 do	20
15	English, Jane	Hyde,	1 do	20
16	Fisher, Leah L	Cabarrus,	6 do	13
17	Fisher, Catherine L	Do	6 do	15
18	Freeman, John B	Hertford,	5 do	12
19	Flowers, Mary	Johnston,	4 do	11
20	Gales, Margaret	Rowan,	4 do	19
21	Goss, Daniel	Davidson,	3 do	20
22	Grice, Rhoda	Nash,	4 do	35
23	Gilchrist, Betsey	Moore,	3 do	23
24	Griggs, John	Anson,	7 do	16
25	Harrell, John W	Randolph,	7 do	16
26	Horton, William L	Wake,	1 do	18
27	Hyman, J M C	Martin,	1 do	24
28	Hyman, Sylvester	Do	1 do	28
29	Hyman, Louisa E	Do	1 do	22
30	Hartshorn, Sylvester	Hertford,	3 do	14
31	Maley, Susan	Davidson,	5 do	16
32	Massey, John	Gaston,	2 do	17
33	Morris, Lucy B	New Hanover,	4 do	14
34	Mills, Lassiter	Wake,	7 do	21
35	Moody, Adeline	Richmond,	4 do	10
36	Neel, James W	Rowan,	5 do	24
37	Neel, Elam W	Do	5 do	18

LIST OF PUPILS CONTINUED.

No.	Names of Pupils.	Residence.	When admt'd.	Age-
38	Nichols, Amos W	Orange,	1 Ses.	20
39	Nichols, Sanford L	Wake,	1 do	13
40	Oliver, William B	Johnston,	2 do	24
41	Oliver, Needham J.	Do	2 do	20
42	Oliver, Sarah	Do	2 do	17
43	O'Neal, Jane	Hyde,	5 do	20
44	Owen, Edward (blind)	Warren,	7 do	14
45	Peace, William R.	Granville,	1 do	28
46	Prewitt, Alexander	Do	2 do	16
47	Prewitt, Richard	Do	2 do	14
48	Pearsall, John H	Duplin,	1 do	15
49	Pratt, Caroline	Forsythe,	6 do	14
50	Pendleton, Penelope	Pasquotak,	7 do	13
51	Riddle, Delia S	Chatham,	1 do	31
52	Rothrock, G Franklin	Stokes,	4 do	13
53	Roper, Hezekiah	Caswell,	3 do	28
54	Ray, Peter L	Alamance,	7 do	10
55	Shelton, William	Edgecombe,	6 do	18
56	Shelton, Lydia Ann	Do	6 do	16
57	Shelton, Perlina	Do	6 do	10
58	Sofley, Whitson	Stanly,	6 do	27
59	Shields, Ann R	Moore,	6 do	11
60	Shields, Susan	Do	7 do	10
61	Saunders, Corn'la (bl'd)	Wake,	7 do	29
62	Underwood, Cresey	Franklin,	2 do	26
63	Williams, Martha	Warren,	5 do	14
64	Wiseman, Susan J.	Davidson,	1 do	22
65	Whiteritt Barbara J,	Alamance,	4 do	15
66	Walker, John W	Guilford,	1 do	26
67	Walker, Louisa J	Do	1 do	18
68	Witherspoon, Caroline	Wake,	7 do	10

Receipts and Disbursements from Nov. 1st, 1850, to
September 1st, 1852:

1850.	Receipts.	
Dec.	From C. L. Hinton, State Treasurer,	1,400 00
1852.		
June.	From D. W. Courts, do	18,306 11
	From Pay Pupils and Counties	926 75
	Balance,	22 11
		<hr/> \$20,690 97 <hr/>

1852.	Disbursements.	
June.	Buildings, repairs, furniture, &c.,	3,758 84
	Outfit of blind department,	1,023 51
	Mechanical department,	903 33
	Freight and incidental expenses,	234 05
	Balance due the Principal, Nov. 1850,	407 49
	Salary of Principal, 1-2 of 6th session,	600 00
	30 pupils, 1-2 of 6th session,	2,175 00
	2 pupils, whole of 6th session,	290 00
	Salary of Principal for 7th session,	1,200 00
	35 pupils, 7th session,	6,125 00
	Allowance for teachers,	500 00
	Do for blind department,	2,000 00
	3-20 of a sess'n, extra, both departments,	1,473 75
		<hr/> \$20,690 97 <hr/>

REPORT AND BILL

OF THE

COMMITTEE ON

CONGRESSIONAL DISTRICTS,

WITH THE

SUBSTITUTE PROPOSED.



RALEIGH:
SEATON GALES, PRINTER TO THE LEGISLATURE.

1852.

The President from the majority of the Committee
submitted the following Bill and Joint Resolution
Ordered to be printed.

REPORT

To lay off eight Congressional Districts within the State
and to designate the counties comprising the same.

[Report and Bill, and Substitute introduced by
Mr. Berry, passed first reading, and ordered to be
printed.]

1. Be it enacted by the General Assembly of the State of North Carolina, that the counties of the State be divided into eight Congressional Districts, to be designated as follows:
2. The counties of Johnston, Wayne, Jones, Dupont, and New Hanover shall compose the first district.
3. The counties of Currituck, Dare, and Beaufort shall compose the second district.
4. The counties of Hyde and Hatteras shall compose the third district.
5. The counties of Craven, Jones, Wayne, Dupont, and New Hanover shall compose the fourth district.
6. The counties of Johnston, Wayne, Jones, Dupont, and New Hanover shall compose the fifth district.
7. The counties of Currituck, Dare, and Beaufort shall compose the sixth district.
8. The counties of Hyde and Hatteras shall compose the seventh district.
9. The counties of Craven, Jones, Wayne, Dupont, and New Hanover shall compose the eighth district.

[Mr. THOMPSON, from the majority of the Committee, submitted the following Bill and Tabular Statements.— Ordered to be printed.]

A N A C T

To lay off eight Congressional Districts within the State and to designate the counties composing the same.

1. *Be it enacted by the General Assembly of the State of*
 2 *North Carolina, and it is hereby enacted by the author-*
 3 *ity of the same, That, for the purpose of electing repre-*
 4 *sentatives to the Congress of the United States, this*
 5 *State shall be divided into eight districts, as follows*
 6 *to-wit: The counties of Chowan, Gates, Hertford,*
 7 *Northampton, Halifax, Bertie, Martin, Washington,*
 8 *Tyrrell, Currituck, Camden, Pasquotank and Perquim-*
 9 *ons, shall compose the first district: The counties of*
 10 *Craven, Pitt, Greene, Wayne, Lenoir, Duplin, Onslow,*
 11 *Jones, Carteret, Hyde and Beaufort, shall compose the*
 12 *second district: The counties of Bladen, Robeson,*
 13 *Richmond, Cumberland, Johnston, Sampson, New Han-*
 14 *over, Brunswick and Columbus, shall compose the third*
 15 *district: The counties of Franklin, Wake, Granville,*
 16 *Warren, Orange, Nash and Edgecombe, shall compose*
 17 *the fourth district: The counties of Alamance, Person,*
 18 *Caswell, Rockingham, Guilford, Randolph and Chatham,*
 19 *shall compose the fifth district: The counties of*
 20 *Yadkin, Alexander, Iredell, Davie. Rowan, David-*
 21 *son, Forsythe, Stokes, Surry and Ashe, shall com-*
 22 *pose the sixth district: The counties of Cabarrus,*
 23 *Mecklenburg, Catawba, Lincoln, Gaston, Cleaveland,*
 24 *nion, Anson, Stanly, Montgomery and Moore, shall*
 25 *compose the seventh district: The counties of Bun-*

26 combe, Madison, Yancy, Watauga, Wilkes, add-
 27 well, Burke, McDowell, Rutherford, Henderson, Hay-
 28 wood, Jackson, Macon and Cherokee, shall compose the
 29 eighth district; each of which districts shall be enti-
 30 tled to elect and send one representative to the Congress
 31 of the United States, according to the regulations now
 32 prescribed by law.

II. *Be it further enacted*, That all acts, and clauses of
 2 acts, coming within the meaning and purview of this
 3 act, be, and are hereby repealed.

CONGRESSIONAL DISTRICTS,

As proposed in the bill reported by Mr. Thompson.

FIRST DISTRICT.		SECOND DISTRICT.	
Currituck	6257	Hyde	6585
Camden	5174	Beaufort	10716
Pasquotank	7708	Pitt	10745
Perquimans	6030	Craven	12309
Gates	6878	Carteret	6208
Chowan	5254	Jones	3935
Hertford	6656	Onslow	7040
Bertie	9973	Duplin	11111
Martin	6961	Lenoir	6182
Washington	4780	Wayne	11478
Tyrrell	4452	Greene	5301
Northampton	10,731		
Halifax	13007		
	<hr/>		<hr/>
	93861		92650

THIRD DISTRICT.		FOURTH DISTRICT.	
New Hanover	14236	Wake	21123
Brunswick	5951	Franklin	9510
Columbus	5308	Warren	10366
Bladen	8024	Granville	17308
Sampson	12311	Orange	14959
Cumberland	17729	Nash	9034
Robeson	11080	Edgecombe	13770
Richmond	7936		
Johnston	11861		
	<hr/>		<hr/>
	94436		96070

FIFTH DISTRICT.

Person	8825
Caswell	12161
Alamance	10166
Chatham	16055
Randolph	15176
Guilford	18480
Guilford	18480
Rockingham	12363
	<hr/>
	93226

SIXTH DISTRICT.

Stokes	8490
Forsythe	10629
Davidson	14123
Rowan	12329
Davie	6998
Yadkin	9500
Surry	8143
Iredell	13062
Alexander	5003
Ashe	8539

 96 816

SEVENTH DISTRICT.

Catawba	8224
Gaston	7228
Lincoln	6924
Mecklenburg	11724
Cabarrus	8674
Union	9258
Stanly	6348
Anson	10756
Montgomery	10163
Moore	8552
Cleveland	9697
	<hr/>
	97,558

EIGHTH DISTRICT.

Wilkes	11642
Watauga	3,348
Caldwell	5836
Burke	6919
Rutherford	12388
McDowell	5741
Henderson	6483
Buncombe	12738
Yancy	8068
Haywood	6907
Macon	6169
Cherokee	6703
Jackson	
Madison	

 92942

REPORT

PRESENTED BY MR. BERRY.



The Committee to whom was referred the subject of arranging the Congressional Districts, have had the subject under consideration, and a portion of the same have directed the undersigned to

REPORT :

After repeated and protracted sessions, during which they have bestowed the attention and labor that the importance of the subject committed to their attention demanded, they regret that no system could be suggested, that received the sanction of a majority of the committee. They believe that the position is correct, that all representative, republican government is based upon the position that the people ought to govern; and when the people are divided in opinion, the voice of a majority, expressed forcibly, and in pursuance of the power of the Constitution, shall be obeyed, as the judgment of the whole.

In submitting the accompanying project, the first principle acted upon, was, to make each district have as near the ratio established by law, as practicable; and that the inhabitants of each district should have similar interests, and homogeneous in their productions, and that the territory of each district be convenient and compact.

The portion of the committee, whose opinions are represented by the undersigned, beg leave to present the following plan, believing that it will give a fair representation of the political opinions of the State, in the House of Representatives, in the Congress of the United States. They can say, with sincerity, that, in recommending the adoption of the plan, they are influenced by no unworthy design, to secure undue political preference to party, but by a conviction that the plan proposed is in accordance with the proverbial integrity, honesty and justice of the people of the old North State.

Respectfully submitted,

JOHN BERRY.

A BILL

To repeal an Act, entitled "an Act to amend an Act concerning the mode of choosing Senators and Representatives in the Congress of the United States, Revised Statutes, chapter 72, ratified 2d day of January 1847, and for securing a just and proper division of the State into Congressional Districts.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the Act entitled "an Act to repeal an act concerning the mode of choosing Senators and Representatives in Congress of the United States ratified 2d day of January 1847, chapter 11," be, and the same is hereby repealed.

II. *Be it further enacted,* That the second section of the Act of 1847, chapter 21, be, and is hereby altered and amended for the purpose of electing Representatives to the Congress of the United States, so as to divide the State into eight, instead of nine districts; and the said eight districts shall be composed of the following counties, to-wit: The first or the Buncombe district shall be composed of the counties of Cherokee, Macon, Jackson, Haywood, Madison, Yancy, Watauga, Henderson, Buncombe, Rutherford, Cleveland, McDowell, Burke and Caldwell. The second or the Lincoln District, shall be composed of the counties of Ashe, Surry, Yadkin, Wilkes, Alexander, Iredell, Catawba, Lincoln, Gaston, Mecklenburg and Union. The third or the Caswell District, shall be composed of the counties of Stokes, Forsythe, Rockingham, Guilford,

17 Caswell, Person, Orange and Alamance. That the
 18 fourth, or the Rowan District, shall be composed of th
 19 counties of Davie, Rowan, Davidson, Cabarrus, Stanly,
 20 Anson, Montgomery, Randolph, Moore and Richmond.
 21 The fifth or the Cumberland District, shall be compos-
 22 ed of the counties of Bladen, Duplin, Columbus, Robe-
 23 son, Brunswick, New Hanover, Sampson, Onslow and
 24 Cumberland. The sixth or the Wake District, shall be
 25 composed of the counties of Granville, Warrer, Frank-
 26 lin, Nash, Wake, Chatham and Johnston. The seventh,
 27 or the Craven District, shall be composed of the coun-
 28 ties of Carteret, Jones, Lenoir, Wayne, Greene, Pitt,
 29 Craven, Beaufort, Hyde, Tyrrell, Martin and Washing-
 30 ton. The eighth, or the Edenton District, shall be com-
 31 posed of the counties of Currituck, Camden, Pasquo-
 32 tank, Perquimons, Gates, Chowan, Hertford, Bertie,
 33 Northampton, Halifax and Edgecombe; each of which
 34 districts shall be entitled to elect and send one Repre-
 35 sentative to the Congress of the United States.

III. *Be it further enacted*, That the third section of said
 2 act, chapter 21, ratified 2d January, 1847, shall be, and
 2 the same is hereby amended, so as to make it the du-
 3 duty of the sheriff, or other returning officer, of each
 4 county in each district, to meet on the Thursday next
 5 after each election, to compare the polls at the places
 6 hereinafter named, that is to say: In the first district
 7 at the court house in Asheville, in Buncombe county;
 8 in the second district at the court house in Newton,
 9 Catawba county; in the third district at the court house
 10 in Yanceyville, in Caswell county; in the fourth
 11 district at the court house in the town of Troy, in
 12 Montgomery county; in the fifth district, at the court
 13 house in the town of Wilmington; in the sixth district
 14 at the court house in Raleigh; in the seventh district at
 15 the court house in Newbern; and in the eighth district
 16 at the court house in Winton, in Hertford county.

IV. *Be it further enacted*, That this act shall take effect
 2 from and after the fourth day of March next.

CONGRESSIONAL DISTRICTS.

As proposed in the Plan submitted by Mr. Berry.

Federal Population of the whole State is	754,129
Divided into Eight districts, the number of members allowed to the State, according to the 7th and last Census, gives to each District as a ratio,	93,712
With a surplus of to be distributed.	5,513

DISTRICT NO. I, <i>Or the Buncombe District.</i>		DISTRICT NO. II, <i>Or the Lincoln District.</i>	
1 Cherokee	6,703	1 Surry,	8,143
2 Macon,	6,169	2 Yadkin,	9,500
3 Haywood,	6,907	3 Wilkes,	11,642
4 Burke,	6,919	4 Alexander,	5,003
5 Henderson,	6,483	5 Iredell,	13,062
6 Rutherford,	12,388	6 Catawba,	8,234
7 McDowell,	5,741	7 Lincoln,	6,934
8 Buncombe,	12,738	8 Gaston,	7,228
9 Caldwell,	5,836	9	
10 Yancy,	0,068	10 Mecklenburg,	11,724
11 Jackson, no census,		11 Union,	9,258
12			
13 Watauga,	3,348		100,425
14 Madison, no census,		Deduct Cleveland,	9,697
	89,839		90,728
Deduct Ashe,	8,539	Add Ashe,	8,539
	81,300		99,267
Add Cleve and,	9,697		
	90,997		

DISTRICT NO. 3.
Or the Caswell District.

1 Stokes,	8,490
2 Forsythe,	10,627
3 Rockingham,	12,363
4 Guilford,	18,480
5 Caswell,	12,161
6 Person,	8,825
7 Orange,	14,957
8 Alamance,	10,166
<hr/>	
	96,069

DISTRICT NO. IV.
Or the Rowan District.

1 Davie,	6998
2 Rowan,	12,329
3 Davidson,	14,123
4 Cabarrus,	8,674
5 Stanly,	6,348
6 Anson,	10,756
7 Montgomery,	6,563
8 Randolph,	15,176
9 Richmond,	7,937
10 Moore,	8,552
<hr/>	
	97,456

DISTRICT NO. V.
Or the Cumberland District.

1 Bladen,	8,024
2 Duplin,	11,111
3 Columbus,	5,308
4 Robeson,	11,080
5 Brunswick,	5,951
6 New Hanover,	14,236
7 Sampson,	12,311
8 Onslow,	7,040
9 Cumberland,	17,729
<hr/>	
	92,170

DISTRICT NO. VI.
Or the Wake District.

1 Granville,	17,303
2 Warren,	10,362
3 Franklin,	9,510
4 Nash,	9,034
5 Wake,	21,123
6 Chatham,	16,055
7 Johnston,	11,861
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	95,248

DISTRICT NO. VII.
Or the Craven District.

1 Carteret,	6,208
2 Jones,	3,935
3 Lenoir,	6,182
4 Wayne,	11,478
5 Greene,	5,321
6 Pitt,	10,748
7 Craven,	12,329
8 Beaufort,	11,716
9 Hyde,	6,585
10 Tyrrell,	4,452
11 Martin,	6,961
12 Washington,	4,780
<hr/>	
	90,692

DISTRICT NO. VIII.
Or the Edenton District.

1 Currituck,	6,257
2 Camden,	5,174
3 Pasquotank,	7,708
4 Perquimans,	6,030
5 Gates,	6,878
6 Chowan,	5,252
7 Hertford,	6,656
8 Bertie,	9,973
9 Northampton,	10,731
10 Halifax,	13,007
11 Edgecombe,	13,790
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	91,406

(Introduced by Mr BYNUM.—Passed first reading; referred to Select Committee, and ordered to be printed.)

A BILL

TO AUTHORISE THE BUSINESS OF

BANKING.

—•••—
A BILL to authorise the business of Banking.

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by the author-*
3 *ity of the same,* That the comptroller is hereby autho-
4 rised and required to cause to be engraved and printed
5 in the best manner, to guard against counterfeiting,
6 such a quantity of circulating notes, in the similitude of
7 bank notes, in blank, of different denominations, not
8 less than three dollars, at the expense, to be paid in ad-
9 vance, of any person or association of persons applying
10 for the same, as he may from time to time deem neces-
11 sary, to carry into effect the provisions of this act.
12 Such blank circulating notes shall be countersigned,
13 numbered and registered in proper books, to be provi-
14 ded and kept for that purpose in his office, so that each
15 denomination of such circulating notes shall bear the
16 uniform signature of the comptroller or his deputy, and
17 the plates, dies and materials to be procured by the
18 comptroller, for the printing and making the circulating
19 notes, provided for hereby, shall remain in his custody,
20 or under his direction.

II. Whenever any person, or association of persons, formed for the purpose of banking, under the provisions of this act, shall duly assign, and transfer, in trust, to the treasurer of this State, any portion of the public stocks issued, or to be issued by the United States, or by the State of North Carolina, such person, or associations of persons, shall be entitled to receive from the comptroller an amount of such circulating notes of different denominations, registered and countersigned, equal to and not exceeding the amount of public stocks assigned and transferred as aforesaid; but such public stocks shall be or be made to be equal to a stock producing six per cent. per annum, and it shall not be lawful for the comptroller to take such stocks at a rate above its par value, nor above its current market value at the time of its deposit by such person or association of persons: *Provided*, That if in the opinion of the comptroller and treasurer, any stocks offered shall be deemed insecure, they shall not be received as such securities under the provisions of this act.

III. A description list of the circulating notes so registered, and countersigned by the comptroller or his deputy, as provided in section first of this bill, shall be delivered to the State treasurer, who shall copy the same in a book hereinafter required to be kept by him, for recording description lists of securities, deposited with him for safe keeping.

IV. Three descriptive lists of the stocks transferred to the State treasurer in trust as aforesaid, shall be made and signed by the comptroller and persons making the transfer; one in a well bound book to be kept by the comptroller for that purpose, one in a like book to be kept by the treasurer, and one in a book to be kept by the association; and said stocks shall then be delivered to the State treasurer for safe keeping, who shall receipt

9 to comptroller for the same, and who shall be responsi-
 10 ble for any loss or destruction thereof, growing out of,
 11 or resulting from negligence, or the want of reasonable
 12 precaution or care. The whole, or any part of said
 12 stocks, may be returned to the comptroller for the pur-
 13 pose of being sold under the provisions of this act, or
 14 being used or disposed of under any order or decree of
 15 court, or of being returned to the owner in conformity
 16 with this act—the comptroller, in either case, giving a
 17 receipt upon the book kept by the treasurer as aforesaid,
 18 specifying therein the purpose for which re-delivery was
 19 made, which receipt shall discharge the treasurer from
 20 all further responsibility, for the stock to be re-delivered
 21 to the comptroller.

V. The treasurer may give to any person or association
 2 of persons, so transferring stocks in pursuance of the
 3 provisions of this act, powers of attorney, to be counter-
 4 signed by the comptroller and recorded by him in a book
 5 to be procured and kept for that purpose, to receive interest
 6 or dividends thereon, which such persons or associations
 7 may receive and apply to their own use ; but such power
 8 may be revoked, upon such person or associations of per-
 9 sons failing to redeem the circulating notes so issued, or
 10 when in the opinion of the comptroller and treasurer,
 11 the principal of such stocks shall become insufficient
 12 security ; and the comptroller, upon the application of
 13 the owners of such transferred stocks in trust, may, in
 14 his discretion, with the approval of the treasurer in
 15 writing, change or transfer the same for other stocks of
 16 the kind before specified in this act, or may transfer
 17 the said stocks or any part thereof, upon receiving and
 18 cancelling an equal amount of such circulating notes,
 19 delivered by him to such person or association of per-
 20 sons, in such manner, that the circulating notes shall
 21 always be secured in full by public stocks, as in this act
 22 provided.

VI. The bills or notes so to be countersigned and registered, and the payment of which shall be so secured by the transfer of public stocks, shall be stamped upon their face, "secured by the pledge of public stocks," and the amount of capital stock of the bank shall be stamped on all such bills or notes.

VII. Every bank and banking association, organised under the provisions of this act, shall pay to the State treasurer, an annual tax of every twenty-five cents for every one hundred dollars of capital stock, to be paid semi-annually, one-half on the first Monday of January, and one-half on the first Monday of July, in each and every year. If any bank or banking association as aforesaid, shall neglect or refuse to pay said tax, for ten days after it shall become due, notice of non-payment shall be sent to such delinquent by the State treasurer, and if the payment be not made within twenty days thereafter, such delinquent bank or banking association, shall, in addition to the tax aforesaid, forfeit and pay to the said treasurer, for the use of the State, one per centum on its capital stock. The above semi-annual tax and forfeiture shall always constitute a lien on the interest of the stocks deposited with the treasurer, as provided in section two, and in case of non payment of such tax and forfeiture, or of either of them, the treasurer is authorised and required to revoke the power of attorney, granted such delinquent, as provided in section five, collect the interest of such stocks, and apply the same to the payment of said tax and forfeitures, or of either of them, and hold the balance, if any, subject to the order of such delinquent. If the interest of said stock shall be insufficient to pay said tax and forfeitures, the treasurer, after deducting the amount of said interest, may collect the balance, by action of debt, in any Court of competent jurisdiction, in the county where such delinquent is located, in the name and in

31 the behalf of the State. Said capital stock shall be ex-
 32 empt from all other taxes, except on that portion of said
 33 capital stock which shall consist of and include the real
 34 property of said bank or banking association : and the
 35 real property of all banks and banking associations
 36 shall be assessed and taxed, in the city, town or county
 37 where the same is located, for all State, town, county,
 38 and corporation purposes, in the name of such bank or
 39 banking association: *Provided*, That the owner or
 40 holder of shares of stock in any bank or banking as-
 41 sociation shall not be taxed as an individual for such
 42 shares of stock.

VIII. Before any person or banking association, formed
 2 under this act, shall receive from the comptroller, any
 3 circulating notes, as provided in sections two and three
 4 of this act, the directors or stockholders shall give to
 5 the comptroller good and sufficient bonds, to be ap-
 6 proved by him and the State treasurer, to the amount
 7 of one-fourth of the notes, that the said person or associa-
 8 tion shall propose to receive, as an additional security,
 9 to indemnify the bill holders against any loss that may be
 10 sustained, in case the stocks deposited with the comp-
 11 troller shall be insufficient to redeem said bills; and such
 12 person, or association of persons, are hereby authorised,
 13 after having executed and signed such circulating notes,
 14 in the manner required by this act, to make them obliga-
 15 tory promissory notes, payable on demand at the place
 16 of business, of such association, within this State, to
 17 loan and circulate the same as money, according to the
 18 ordinary course of banking houses.

IX. Any number of persons may associate to establish
 2 offices of discount, deposits and circulation, and become
 3 incorporated upon the terms and conditions, and sub-
 4 ject to the liabilities prescribed in this act; but the ag-
 5 gregate of the capital stock of any such association
 6 shall not be less than twenty-five thousand dollars, nor
 7 more than five hundred thousand dollars.

X. Such persons, under their hand and seal, shall make
 2 a certificate which shall specify, 1st. The name assum-
 3 ed, to distinguish such association, and to be used in all
 4 its dealings; which name shall not be that of any other
 5 bank or banking association in this State; 2d. The place
 6 where the business of discount and deposit of such as-
 7 sociation is carried on, designating the particular city,
 8 town or village; 3d. The amount of capital stock of
 9 such association, and the number of shares into which
 10 the same shall be divided; 4th. The names and places
 11 of residence of the shareholders, and the number of
 12 shares held by each of them respectively; 5th. The
 13 period at which such association shall commence and
 14 terminate, which certificate shall be acknowledged be-
 15 fore the clerk of the county Court, and recorded in the
 16 office of the register of the county where such associa-
 17 tion shall be established, and a copy thereof filed in the
 18 offices of the State treasurer and comptroller; and upon
 19 the recording of which certificate, the person, or asso-
 20 ciation of persons, aforesaid, shall become a body poli-
 21 tic and corporate, by the name assumed, as aforesaid,
 22 for and during the time fixed in the certificate, and by
 23 such name, shall have power to contract and be con-
 24 tracted with, and shall have all other powers, privileges
 25 and immunities, and be subject to all the liabilities inci-
 26 dent to corporations, as provided in chapter twenty-six
 37 of the first volume of the revised statutes, and chapter
 38 fifty of the acts of the General Assembly, passed at the
 39 session of 1850.

XI. A copy of the certificate required by the preceding
 2 section, duly certified by the register of the county or
 3 comptroller, may be used as evidence in all courts and
 4 places, for and against any such association, or any
 5 other person, for or against whom any such evidence
 6 may be necessary in any civil or criminal trial, where
 7 the original certificate would be competent.

XII. Such association shall have power to carry on the
2 business of banking, by discounting bills, notes, and
3 other evidences of debt, by receiving deposits, by buy-
4 ing and selling gold and silver bullion, foreign coin and
5 foreign and inland bills of exchange, by loaning money
6 on real or personal securities, and by exercising such
7 incidental powers as may be necessary to carry on such
8 business, may choose one of their number as president,
9 and appoint a cashier and such other officers and agents
10 as their business may require ; but no association or
11 banker shall commence the business of banking under
12 this act, until such association or banker shall have de-
13 posited with the State treasurer the stocks required by
14 this act, to the amount of twenty-five thousand dollars,
15 exclusive of bonds of directors or stockholders.

XIII. The shares of such association shall be deemed
2 personal property, and shall be transferable on the books
3 of the association, in such manner as may be agreed on
4 in the articles of association, and every person becom-
5 ing a shareholder by such transfer, shall, in proportion to
6 his shares, succeed to all the rights and be subject to all
7 the liabilities of prior shareholders. No change shall be
8 made in the articles of association, by which the rights,
9 remedies or securities of its existing creditors shall be
10 weakened or impaired. Such association shall not be dis-
11 solved by the death or insanity of any one of the share-
12 holders therein.

XIV. In case the maker or makers of any circulating
2 note or notes, countersigned and registered as aforesaid,
3 shall, at any time hereafter, on lawful demand, during
4 the usual hours of business, between the hours of ten
5 and three o'clock, at the place where such note or notes
6 is or are payable, fail or refuse to redeem such note or
7 notes in the lawful money of the United States, the
8 holder or holders of such note or notes, making such

9 demand, may cause the same to be protested in one
 10 package for non-payment by a notary public, under his
 11 official seal, unless the president, cashier or teller, shall
 12 offer to waive demand, and notice of protest, and
 13 shall, in pursuance of such offer, make, sign, and deliver
 14 to the party making such demand an admission in wri-
 15 ting, stating the time of the demand, the amount de-
 16 manded, and the fact of the non payment thereof; and
 17 the comptroller, on receiving and filing in his office such
 18 admission or protest, together with such note or notes,
 19 shall forthwith give notice in writing to the maker or
 20 makers of such note or notes, to pay the same, and if
 21 they shall omit to do so for five days after such notice,
 22 the comptroller shall immediately thereupon, (unless he
 23 shall be satisfied that there is a good and legal defense
 24 against the payment of such note or notes,) give notice
 26 that all the circulating notes issued by such person or
 27 association of persons will be redeemed out of the trust
 28 funds in his hands for that purpose; which notice shall
 29 be given by publishing the same, in some newspaper
 30 printed in the county where the business of such associ-
 31 ation is established, or in case there is no newspaper
 32 printed in such county, such notice shall be published
 33 in some newspaper printed in some neighboring county;
 34 and the comptroller shall be required to apply the said
 35 trust fund, belonging to the maker or makers of such
 36 protested note or notes, to the payment *pro rata* of all
 37 circulating notes, whether protested or not, put in circu-
 38 lation by the maker or makers of such protested note or
 39 notes, pursuant to the provisions of this act; and to
 40 adopt such measures for the payment of such notes, as
 41 will, in his opinion, most effectually prevent loss to the
 42 holders thereof.

XV. In case such person or association of persons shall
 2 fail or refuse to pay such bill, note or notes on demand,
 3 in the manner specified in the preceding section of this

4 act, the comptroller, after the expiration of the five days
 5 mentioned in the preceding section, shall, after giving
 6 thirty days notice by publication in two newspapers,
 7 printed at the seat of government of this State, proceed
 8 to sell at the court house door in the city of Raleigh,
 9 the stocks so pledged as aforesaid, at public auction, and
 10 out of the proceeds of sale, shall pay and cancel all the
 11 bills or notes which have been issued or put in circula-
 12 tion by such person or association under the provisions
 13 of this act, to be applied *pro rata* to the payment of all
 14 such circulating notes; but nothing in this act contain-
 15 ed shall be considered as implying any pledge on the
 16 part of the State, for the payment of said bills or notes,
 17 beyond the proper application of the securities, pledged
 18 to the treasurer for their redemption.

XVI. In case the current market value of any portion of
 2 the stocks transferred, by any banking association to
 3 the State treasurer, in trust as aforesaid in this act, shall,
 4 at any time, for the period of ninety days, be less than
 5 the value at which they were deposited, the comptroller
 6 shall notify such bank of the depreciation in value of
 7 such stocks, and such banks, within thirty days after
 8 receiving such notice, shall cause stocks of the kind be-
 9 fore specified, or an equal amount of their circulating
 10 notes, to be transferred to the treasurer in trust, to an
 11 amount equal to the difference between the current mar-
 12 ket value at the time of notice, and the value at which
 13 the same were deposited; and if said banking associa-
 14 tion shall neglect or refuse to deposit public stocks or
 15 circulating notes to the amount of such differences,
 16 within thirty days after said notice, the said association
 17 shall be deemed to have forfeited their rights, powers,
 18 privileges and immunities as banking associations under
 19 the provisions of this act; and it shall be the duty of the
 20 comptroller, to make application to the Superior Court of
 21 the county in which such association may be located.

22 to have a receiver or receivers appointed, who shall
 23 have the powers and perform the duties hereinafter pro-
 24 vided. But this section shall not be so construed, as to
 25 require the surrender to such receiver of any stocks, de-
 26 posited with the treasurer or comptroller, pursuant to
 27 this act ; and the comptroller shall sell such stocks, for
 28 the payment of the bills or notes issued by the bank, as
 29 he is required to do in other cases.

XVII. It shall not be lawful for the comptroller or his
 2 deputy, to countersign bills or notes for any association,
 3 to an amount in the aggregate, exceeding the stocks at
 4 their value, as before provided in this act, deposited with
 5 the treasurer in trust by such association ; and any
 6 comptroller or deputy, who shall violate the provisions
 7 of this section, shall, upon conviction, be deemed guilty
 8 of a misdemeanor, and shall be punished by a fine of not
 9 less than five thousand dollars, or be imprisoned not less
 10 than five years, or by both such fine and imprisonment.

XVIII. It shall be lawful for any association of persons
 2 organized under the provisions of this act, by their arti-
 3 cles of association, to provide for an increase of their
 4 capital, and of the number of their association from
 5 time to time, as they may think proper ; the aggregate
 6 capital not to exceed five hundred thousand dollars, as
 7 before provided.

XIX. Contracts made by any such associations, and all
 2 notes and bills by them issued and put in circulation as
 3 money, shall be signed by the president and cashier
 4 thereof.

XX. It shall be lawful for such associations, to purchase,
 2 hold, and convey real estate for the following purposes :
 3 1st. Such as shall be necessary for its immediate ac-
 4 commodation in the convenient transaction of its busi-

5 ness. 2nd. Such as shall be mortgaged to it in good faith
 6 by way of security for loans made by, or money due to
 7 such association. 3rd. Such as shall be conveyed to it in
 8 satisfaction of debts previously contracted in the course
 9 of its dealings. 4th. Such as it shall acquire by sale or
 10 execution or decree of any court in its favor. The said
 11 association shall not purchase, hold, or convey real estate
 12 in any other case, or for any other purpose whatever,
 13 and all conveyances of such real estate shall be made to
 14 the corporation, and which real estate, the president and
 15 and cashier may sell, assign, grant, or convey, under the
 16 direction of the association, free from any claim thereon,
 17 in favor of or against the shareholders, or any person
 18 claiming under them.

XXI. Such association shall be liable to pay the holder
 2 of every bill or note put in circulation as money, the
 3 payment of which shall have been demanded and pro-
 4 tested, five per cent. damages for the non-payment
 5 thereof.

XXII. The president and cashier of every association,
 2 formed pursuant to the provisions of this act, shall at all
 3 times keep a true and correct list of the names of all
 4 the shareholders of such association, and shall file a
 5 copy of such list with the register of the county where
 6 such association may be located, and also in the office
 7 of the comptroller, on the first monday in January and
 8 July in each year.

XXIII. It shall not be lawful for any association, formed
 2 under the provisions of this act, to make any of its bills
 3 or notes to be put in circulation as money payable at
 4 any other place, than at the office where the business of
 5 the association is carried on and conducted, nor shall
 6 any such association have more than one place where
 7 its business is transacted; and said bills or notes shall be
 8 made payable on demand and without interest.

XXIV. Whenever the stocks deposited for the redemp-
 2 tion of circulating notes, shall, in the opinion of the
 3 comptroller and treasurer, become insufficient for that
 4 purpose, he may receive the interest and dividends, on
 5 all said stocks, and shall deposit the same with some

6 safe banking association, the deposit to be made on such
 7 terms and at such rate of interest as the comptroller
 8 may deem most conducive to the interest of the associa-
 9 tion to which they belong, and to be withdrawn and
 10 paid over, whenever, in the opinion of the comptroller,
 11 the securities of such association shall be sufficient to
 12 warrant it.

XXV. All fees for protecting the circulating notes issued
 2 by any banking association, shall be paid by the person
 3 procuring the services to be performed, for which
 4 said association shall be liable, but no part of the secu-
 5 rities deposited by such association shall be applied to
 6 the payment of such fees.

XXVI. When the officers of any banking association,
 2 desirous of relinquishing the banking business, shall
 3 have redeemed ninety per cent. of their circulating
 4 notes, and shall have returned, cancelled, the said notes,
 5 to the comptroller, and shall produce, to the comptroller,
 6 a certificate of deposit, to his credit, in such bank as he
 7 shall approve, to an equal amount with the circulating
 8 notes of such banking association, unredeemed, it shall
 9 be lawful for him to receive the same, and to give up
 10 all the securities theretofore deposited by such banking
 11 association for the redemption of circulating notes is-
 12 sued.

XXVII. Such banking association, after having com-
 2 plied with the provisions of the last preceding section,
 3 shall give notice for two years, in some newspaper in
 4 the county where such bank shall have been located,
 5 that all the circulating notes issued by such banking as-
 6 sociation must be presented at the comptroller's office,
 7 within two years from the date of such notice, or that
 8 the funds deposited for the redemption of the notes will
 9 be given up to the banking association; and on receiv-
 10 ing satisfactory proof of the giving such notice, for the
 11 time aforesaid, the comptroller shall surrender to the offi-
 12 cer of such banking association, any securities which he
 13 may hold for the payment of any unredeemed notes of
 14 the said banking association.

XXVIII. Any banking association, wishing to withdraw
 2 any of the securities by them deposited, with the comp-
 3 troller, may do so, by depositing in lien thereof, an equal
 4 amount of specie, or of the circulating notes which have
 5 been issued to the said association, by the comptroller,
 6 in sums of not less than one thousand dollars.

XXIX. The securities to be deposited with the trea-
 2 surer, in trust, by any association, shall be held by him
 3 exclusively, for the redemption of the bills or notes of
 4 such association, put in circulation as money, until the
 5 same are paid and returned to the comptroller, as pro-
 6 vided in this act; but the treasurer may assign said se-
 7 curities to said association, transferring the same upon
 8 receiving therefor equivalent securities, or upon being
 9 notified by the comptroller that such bank had deposited
 10 with him an equivalent amount in specie, or circulating
 11 notes issued by said bank, as provided in the preceding
 12 section.

XXX- All the circulating notes of banks and banking
 2 associations, returned to the comptroller, shall be de-
 3 stroyed by him after he shall have made a record of
 4 the same; which record shall specify the number of
 5 each bill, its date, and by whom it was countersigned,
 6 and shall be made in the books to be kept by him for
 7 registering circulating notes, as provided in the first sec-
 8 tion of this act; and said comptroller shall also furnish
 9 the State treasurer with a copy of the record required
 10 by this section, who shall record said copy in the book
 11 in which he is required to copy descriptive stocks,
 12 and circulating notes, by sections three and four of this
 13 act.

XXXI. If any portion of the original capital of any bank-
 2 ing association shall be withdrawn, for any purpose
 3 whatever, whilst any debts of the association shall re-
 4 main unsatisfied no dividends or profits, in the shares
 5 of the capital stock of the association, shall thereafter be
 2 made, until the deficit of capital stock shall have been
 3 made good, either by subscription of the shareholders, or
 4 out of the subsequent accruing profits of the association;
 5 and, if it shall appear that any such dividends have been

made, it shall be the duty of the Superior Court of the county in which said association may be located, on application of any person in interest, to make the necessary orders and decrees for closing the affairs of the association, and distribute its proceeds among its creditors and shareholders.

XXXII. Every bank and banking association, shall, on the first Monday of January and July of every year, after having commenced the business of banking, as prescribed in this act, make and transmit to the comptroller, a report, which said report shall be made on oath of the president and cashier, and shall contain a true statement of the following items on the mornings of the said first Mondays of January and July, before any business of that day : Loans and discounts, over drafts, due from banks, due from directors of said banks, due from brokers, real estate, cash items, stocks and promissory notes, bills of solvent banks, bills of suspended banks, loss and expense account, capital, circulation, amount due to State treasurer, amount due to depositors on demand, amount due not included in either of the above heads. And it shall be the duty of the comptroller to publish said report together once, in some newspaper printed at seat of government, accompanied with a summary of items of capital, circulation and deposit, specie and cash items, public securities and private securities, and the expense of such publication shall be defrayed by a percentage assessed upon the capital stock of all the banks and banking associations in this State; and if any bank shall fail to furnish to the comptroller its semi-annual report in time for such publication, or shall fail to pay the percentage assessed by the comptroller, under this section, when the same shall be demanded by him, it shall forfeit and pay the comptroller the sum of one hundred dollars, to be applied by him to the payment of the expense of publishing the semi-annual reports, and the comptroller is authorised to collect the said forfeiture in his name, upon application to any Court of competent jurisdiction in the county in which such delinquent bank is located. The comptroller shall also transmit biennially to the Legislature, at the commencement of its session, a condensed summary of all the items reported to him by all the banks, which summary, verified by his

38 oath, shall contain a true and correct statement of the
 39 condition of all the banks in the State, at the time of
 40 their making their last report, as communicated to him.
 41 Every bank and banking association shall also file a copy
 42 of the report required by this section, in the office of the
 43 register of the county where such bank is located, on
 44 the first Monday of Jannary and July in each year. It
 45 shall be the duty of the comptroller, on the last days of
 46 January and July of each year, to publish, in some paper
 47 printed at the seat of government, the number of banks
 48 in operation, and a descriptive list of the securities trans-
 49 ferred to the treasurer, in trust, for each banking asso-
 50 ciation respectively.

XXXIII. It shall be the duty of the comptroller to re-
 2 ceive mutilated circulating notes issued by him, and after
 3 making a record of them, their denomination and amount,
 4 to deliver, in lieu thereof, other circulating notes to the
 5 same amount.

XXXIV. Such banks or banking associations may de-
 2 mand and receive for loans, on real or personal security,
 3 or for notes, bills or other evidences of debt discounted,
 4 a note of interest not exceeding six per cent. per annum.
 5 It shall be lawful to receive the interest in advance ac-
 6 cording to the ordinary usage of banking institutions,
 7 and to charge for collecting foreign or inland bills, or
 8 other evidences of debt, the usual current rate of ex-
 9 change, and in the computation of time, thirty days shall
 10 be a month and twelve months a year.

XXXV. All bills and notes of such banking association,
 2 shall at all times be received by said association on all
 3 judgments, executions or demands, payable to, or the
 4 property of such banking association.

XXXVI. That each and all the provisions of this act
 2 shall apply to, and control in all respects any banker,
 3 who shall conduct business under the provisions of this
 4 act, whether the word banker is, or is not used in any
 5 such provision.

XXXVII. The officers or agents of any banking associa-
 2 tion, who shall pay out, to be put in circulation as money

3 in this State, any bill, note, certificate of deposit, or
 4 other paper having the similitude of a bank note, know-
 5 ing the same to have been issued without the authority
 6 of this or any other of the United States, or of the Con-
 7 gress of the United States, shall, upon conviction, be
 8 adjudged guilty of a misdemeanor, and shall be punished
 9 by fine, not less than one hundred dollars for every piece
 10 of paper so put in circulation, or imprisoned not less than
 11 six months, or by both fine and imprisonment.

XXXVIII. The stockholders in every corporation or as-
 2 sociation organized under the provisions of this act, shall
 3 be individually responsible to the amount of their res-
 4 pective share or shares of stock, for all its indebtedness
 5 and liabilities of every kind.

XXXIX. The provisions of this act shall not extend to
 2 the banks heretofore chartered in this State, nor shall
 3 any railroad corporation, plank road or turnpike corpo-
 4 ration, mining and manufacturing corporation, or any
 5 corporation heretofore established, or hereafter to be es-
 6 tablished to conduct or transact any other species of busi-
 7 ness whatsoever, conduct banking business under the
 8 provisions of this act; nor shall any association organ-
 9 zed under the provisions of this act engage in any
 10 other business, except such as they are authorised to do
 11 by this act.

REPORT

OF THE

SELECT COMMITTEE

ON FISHERIES.



The select committee, appointed under a resolution of the Senate, to enquire whether any thing can be done to promote the fishing interest in the eastern part of this State, and into the expediency of making the laws uniform in relation to the fisheries, have had the same under consideration, but, under the pressure of other public duties, have not had the time they desired to bestow upon the subject all the attention which the important interests involved so justly demand. Their investigations, however limited as they necessarily have been, enable the committee to state, that the laws governing the fisheries contain the most anomalous, discordant and contradictory provisions, operating partially and unjustly among a people equally entitled to participate, in a great bounty, sent by the goodness of Providence to bless mankind.

Some of the fisheries, and especially those of the most importance, are left perfectly free to operate at all times, according to the will and pleasure of the owners, while others, but a short distance removed from them, are hedged in by stringent prohibitions and restrictions. Take, by way of example, the fisheries on Albemarle Sound and Chowan river, where seines are used of more than a mile in length and thousands of drag and set nets dot over the waters in every direction. The law imposes no restraint upon them whatever, and they are worked at all times, both by day and night, without the slightest regard, except in a few very honorable and praiseworthy instances, even to the Sabbath day. On the contrary, the owners of seines and nets of all kinds, on Roanoke, Cashie, Perquimons, Alligator, Scuppernon, North river, dividing Camden and Currituck, the Frying Pan and the Marshes dividing Pamlico and Croatan, are under various penal restrictions altogether partial and unequal. In some of the rivers just mentioned, fishing with seines and nets is prohibited by law from sun rise on Saturday, till sun rise on Monday ensuing; in others from sun-set on Saturday till Monday at sun-rise; and in others again from Saturday at sun-set until Sunday night at twelve o'clock. Furthermore, in some, fishing with seines is restricted to one-half of the width of the river or channel, whilst, in others, fishing is allowed to extend two-thirds and three-fourths across from side to side. And again, while in some of the rivers, fishing is permitted at the mouths thereof, in others, it is prohibited for the distance of from four hundred to seventeen hundred and sixty yards.

It is difficult to believe that these diversities and incongruities can have been founded on any fixed principles of just calculation; on the contrary, in all reasonable probability, they are the results of accident or inadvertence. That these inequalities, producing discontent, should not be permitted to exist any longer, the committee entertain no doubt, and they are persuaded that the penal restrictions

on fishing should be entirely removed, or else that they should be modified and made to operate all alike.

The question then presents itself, which alternative is most likely to preserve the fisheries, and most widely to extend their benefits. This requires some consideration, and the committee have turned their attention to it, with the most anxious desire to arrive at the truth, and to come to the best conclusion.

The annual periodical supply of shad and herring in our waters, is generally regarded, by those within its reach, as one of the most highly prized benefactions bestowed by the Great Creator, on mankind.

It may, perhaps, valuable as it is, be overrated, but coming once the year, and lasting but for the short period of about two months, they indulge an habitual attachment to this kind of food, and would probably rather be subjected to almost any other privation than to be deprived of this highly prized enjoyment. The general feeling of the people having taken this direction, they look with anxiety and concern on the yearly diminishing quantities of fish coming up our rivers, and indeed into our sounds, from sea.

Such is the anxious desire of the people to secure a supply of fish in the spring of the year, a stranger to their habits would be astonished to see on the public roads the innumerable wagons and carts wending their toilsome way from one hundred to one hundred and fifty miles, to the fisheries, in quest of their accustomed supply. From Guilford, Rockingham, Caswell, Orange, Person, Granville, Franklin, Wake, Nash, Warren, Halifax, Edgecombe, Northampton and various other counties, the owner of the wagon, and the poor man with his horse and cart, constituting nearly the whole of his wealth, find their way to the fisheries, and with their hard earnings, purchase their loads of fish, and go their way rejoicing. It is true, they pay dearly for this indulgence, and it is difficult to understand how those who travel the greater distances can af-

ford it, but they meet the disadvantages cheerfully, and come and go apparently joyous and happy.

But a few years ago, our rivers were overflowing with fish, the shad, the roek, the herring: none being superior, if equal, to them in this country. They were then more accessible, more conveniently distributed, and were obtained at about half the price at which they now sell. How changed the prospect! So far as our principal rivers are concerned, with the exception of the Chowan, the use of seines in the taking of fish is nearly abandoned, and where plenty abounded, there is now scarcity and disappointed hopes. At the period to which reference is had, the large fisheries had not been established on the sounds; nor indeed had nets been there employed to any considerable extent, if at all. Now it is asserted by men of accurate information, that seventy seines of the largest class, and thousands of nets are constantly worked in the sounds, and Chowan river. The constant working of seines and nets, both night and day, form an insuperable obstacle to the passage of fish in any considerable quantity, much beyond the sea coast. The committee regard as especially injurious to the prosperity of the fisheries, the fishing in and near the inlets from the ocean. These inlets, unlike the spacious bays and rivers to the north of us, are comparatively very contracted, varying from one or two hundred yards to one mile in width. The shad and herring being among the most defenseless of the finny tribe, are naturally and habitually timid. They are ever alive to danger and the appearance of danger.—The fishing with seines and nets cannot be conducted in narrow passages, like the inlets, without occasioning alarm, and the shad and herring are thus easily driven back into the sea, where they are devoured in great numbers by the more powerful and voracious of their kind, or they are driven to seek refuge for their progeny, in more quiet and peaceful waters. It is urged, however, that the persons living about the inlets, are generally poor, that their chief means of support is derived from the employment of fishing,

and that it would be a great hardship to deprive them of this source of living. It is proclaimed in Holy writ, that the poor we have always among us. They are not confined to the inlets or the neighborhood thereof. They are found on the shores of the sounds, the rivers, and every where else, in our State, and have equal claims to our benevolent and protecting care, without regard to locality. All that the poor of the inlets can rightfully claim, is that they should not be placed on a worse footing, in regard to fishing privileges, than the poor in other sections, vastly surpassing them in number, equally needy and equally entitled to the bounties of Providence. This is conceding much in their behalf. If any discrimination by law ought to be made, which is not proposed, it should be made against the poor of the inlets, and in favor of the poor elsewhere, for the reason that, their locality enables them to reap more abundantly of the coveted harvest, than those living remotely from the sea-shore; and because they can fish at all seasons of the year, while the other class can only supply themselves with a scanty allowance for about two months in the year. Our navigable waters belong to the sovereign authority of the State, except so far as jurisdiction has been granted by the constitution to the General Government, to regulate commerce with foreign nations, and between the several States. The fish found in our navigable waters, being the property of the State, should not be monopolized by the few, but should be as widely distributed, by equal and just laws, as practicable.

To this end, the committee propose that the prohibition and restrictions now imposed by law on the fishing with seines and nets, in Pamlico, Croatan, Roanoke and Albemarle Sounds, and the various rivers emptying into them, be repealed; and that a general bill, concerning the fisheries, be passed, prohibiting, under adequate penalties, the fishing with seines and nets, in the said waters, from sun-set on Saturday until twelve o'clock on Sunday night ensuing in each week, from the first day of February, to the first

day of May in every year. The policy of this reform is recommended by its uniformity, equality and justice : by its affording, perhaps, the best means of protecting the fishing interest, and the more widely distributing the benefits, and it is recommended by the further high consideration, that it will secure from violation, the Sabbath day, at the fisheries, where, for many years, it has been most awfully contemned and disregarded. The committee is informed, and take great pleasure in stating the fact, that several of the owners of the most valuable fisheries in the State refuse to work their seines on the Sabbath day, and that there is a constantly increasing wholesome public sentiment, utterly opposed to such fishing. To carry into effect the views of the committee, as presented in this report, they offer the accompanying bill, and commend it to the favorable consideration of the Senate.

A. JOYNER, Chairman.

A BILL

Regulating the Fisheries in the Eastern part of
the State.

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by the author-*
3 *ity of the same,* That it shall not be lawful for any per-
4 son to fish with a sein, drag or set net in any of the inlets
5 of the Atlantic coast of this State, lying between Ocracoke
6 Inlet and Roanoke Island, nor in that part of Pamlico
7 Sound lying to the north of a line drawn from
8 Portsmouth in Carteret county, to the mouth of Pungo
9 river in Hyde county, nor in Croatan, Roanoke, or Albemarle
10 or Currituck sounds; nor in any water course
11 emptying into either of the said sounds, between sunset
12 on Saturday, and twelve o'clock at night on Sunday,
13 ensuing, in each and every week, from the first day of
14 February to the first day of May in every year; and if
15 any person shall so fish in any of the said waters, contrary
16 to the true intent and meaning of this act, every such
17 person, and any other person aiding and assisting therein,
18 shall forfeit and pay for every such offence, so unlawfully
19 committed, as follows: For each time a sein or
20 drag net is so dipt or dragged in any of said waters,
21 in violation of the provisions of this act, two hundred
22 and fifty dollars, to be recovered by any person suing
23 for the same in any court having competent jurisdiction,
24 and the same shall be applied, one-half to the use of
25 the informer suing for the same, and the other half to the
26 use of the wardens of the poor of the county wherein such
27 offence is committed; and for any net set as aforesaid, the
28 sum of twenty dollars, to be recovered by warrant before
29 any Justice of the Peace of the county in which
30 such offence is committed, to be applied one-half to the
31 informer suing for the same, and the other half to the

32 use of the wardens of the poor of said county : *Provi-*
 33 *ded.* nevertheless, that no person shall be liable to the
 34 penalties of this act, whose sein happens to be in the
 35 water, making a haul at sunset on Saturday of any
 36 week, if the same is taken in as early thereafter as con-
 37 veniently practicable, and no other haul be made on the
 38 same evening.

II. *Be it further enacted,* That it shall not be lawful, in
 2 hauling any sein within three miles of the mouth of any
 3 river, and within such river, emptying into either of said
 4 Sounds, to sweep more than one-half of the distance
 5 across the same; and any person offending against the
 6 true intent and meaning of this section shall forfeit and
 7 pay the sum of dollars for each offence, to
 8 be recovered before any court having competent juris-
 9 diction thereof, one-half to the use of the informer suing
 10 for the same, and the other half to the use of the war-
 10 dens of the poor in the county wherein the offence is
 21 committed.

III. *Be it enacted,* That nothing contained in this act
 2 shall be so construed as to repeal the act, or any portion
 3 of it, entitled "an act

IV. *Be it enacted,* That all acts, and clauses of acts,
 2 coming within the meaning and purview of this act, be
 3 and the same are hereby repealed.

[SENATE DOCUMENT, No. 23.]

[187]

A BILL

TO

LAY OFF THE STATE

INTO FIFTY

SENATORIAL DISTRICTS.

RALEIGH:

SEATON GALES, PRINTER TO THE LEGISLATURE.

—0—
1852.

[Reported by Mr. Boyd, laid on the table and ordered
to be printed.]

A BILL

To lay off this State into fifty Senatorial Districts.

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by the author-*
3 *ity of the same, That, for the purpose of electing Mem-*
4 *bers to the Senate of the General Assembly of the State*
5 *of North Carolina, this State shall be divided into fifty*
6 *Districts as follows: That is to say, the first district*
7 *shall consist of the counties of Pasquotank and Per-*
8 *quimons; the second district of Camden and Currituck;*
9 *the third district of Gates and Chowan; the fourth dis-*
10 *trict of Washington, Tyrrell and Hyde; the fifth dis-*
11 *trict of Northampton; the sixth district of Hertford;*
12 *the seventh district of Bertie; the eighth district of*
13 *Martin; the ninth district of Halifax; the tenth dis-*
14 *trict of Edgecombe; the eleventh district of Pitt; the*
15 *twelfth district of Beaufort; the thirteenth district of*
16 *Craven; the fourteenth district of Onslow, Carteret and*
17 *Jones; the fifteenth district of Green and Lenoir; the*
18 *sixteenth district of New Hanover; the seventeenth*
19 *district of Duplin; the eighteenth district of Bladen and*
20 *Robeson; the nineteenth district of Brunswick and Co-*
21 *lumbus; the twentieth district of Cumberland; the*
22 *twenty-first district of Sampson; the twenty-second*
23 *district of Wayne; the twenty-third district of John-*
24 *ston; the twenty-fourth district of Wake; the twenty-*
25 *fifth district of Nash; the twenty-sixth district of*
26 *Franklin; the twenty-seventh district of Warren; the*
27 *twenty-eighth district of Granville; the twenty-ninth*

28 district of Person ; the thirtieth district of Orange ; the
 29 thirty first district of Alamance ; the thirty-second
 30 district of Chatham ; the thirty-third district of Ran-
 31 dolph and Montgomery ; the thirty-fourth district of
 32 Richmond and Moore ; the thirty-fifth district of Anson
 33 and Union ; the thirty-sixth district of Guilford ; the
 34 thirty-seventh district of Caswell ; the thirty-eighth dis-
 35 trict of Rockingham ; the thirty-ninth district of Meck-
 36 lenburg ; the fortieth district of Stanly and Cabarrus ;
 37 the forty-first district of Rowan and Davie ; the forty-
 38 second district of Davidson ; the forty third district of
 39 Stokes and Forsythe ; the forty-fourth district of Ashe,
 40 Surry and Yadkin ; the forty-fifth district of Wilkes,
 41 Iredell and Alexander ; the forty-sixth district of Burke,
 42 McDowell, Caldwell and Watauga ; the forty-seventh
 43 district of Lincoln, Gaston and Catawba ; the forty-
 44 eighth district of Rutherford and Cleaveland ; the
 45 forty-ninth district of Buncombe, Henderson, Yancy
 46 and Madison ; and the fiftieth district of Haywood, Ma-
 47 con, Cherokee and Jackson.

II. *Be it further enacted,* That when any senatorial dis-
 2 trict as laid off by this act, is composed of more than
 3 one county, the sheriff or other returning officer of
 4 each of the counties composing such senatorial district,
 5 shall, after receiving the returns from the inspectors as
 6 now prescribed by law, meet on the second Thursday
 7 in August, after each election, at the following places in
 8 their respective districts, for the purpose of comparing
 9 the polls in said district, to-wit: In the first district
 10 composed of the counties of Pasquotank and Perquim-
 11 ons ; in the second district composed of the counties of
 12 Camden and Currituck ; in the third district composed
 13 of the counties of Gates and Chowan ; in the fifteenth
 14 district composed of the counties of Green and Lenoir ;
 15 in the forty-first district composed of the counties of

16 Rowan and Davie; in the forty-fourth district compo-
 17 sed of the countties of Ashe, Surry and Yadkin; in the
 18 forty-ninth district composed of the counties of Bun-
 19 combe, Henderson, Yancy and Madison; in the fiftieth
 20 district composed of the counties of Haywood, Macon,
 21 Cherokee and Jackson, at the several places now provi-
 22 ded by law; in the fourth district composed of the
 23 counties of Washington, Tyrrell and Hyde, at
 24 in the county of Tyrrell; in the fourteenth
 25 district composed of the counties of Onslow, Carteret
 26 and Jones, at Jacksonville in the county of Onslow; in
 27 the eighteenth district composed of the counties of Bla-
 28 den and Robeson, at Elizabethtown, in the county of
 29 Bladen; in the nineteenth district composed of the
 30 counties of Brunswick and Columbus, at Flemington,
 31 in the county of Columbus; in the thirty-third district
 32 composed of the counties of Randolph and Montgome-
 33 ry, at , in the county of ;
 34 in the thirty-fourth district, composed of the counties of
 35 Richmond and Moore, at the Mineral Springs
 36 in the county of Moore; in the thirty-fifth
 37 district, composed of the counties of Anson and Union,
 38 at in the county of
 39 ; in the fortieth district, composed of
 40 the counties of Cabarrus and Stanly, at Mount Pleasant
 41 in the county of Cabarrus; in the forty-third district,
 42 composed of the counties of Stokes and Forsythé, at
 43 Germanton, in the county of Stokes ;
 44 in the forty-seventh district, composed of the counties
 45 of Lincoln, Gaston and Catawba, at Lincolnton in the
 46 county of Lincoln; in the forty eighth district, compo-
 47 sed of the counties of Rutherford and Cleaveland, at
 48 in the county of
 49 and in the several districts composed of one county, at
 50 the Court Houses of their respective counties.

III. *Be it further enacted*, That this act shall take effect,
2 and be in full force from and after its ratification, provi-
3 ded that nothing in this act contained, shall be so con-
4 strued as to affect the manner of holding an election for
5 a member of the Senate, before the next regular election
6 to be holden on the first Thursday in August, 1854.

DIVISION OF THE STATE OF NORTH CAROLINA into Fifty Senatorial Districts.

Aggregate amount of Taxes paid for the years 1848, '49, '50, '51, '52, is \$691,674 53.

RATIO 2,766.

DISTRICTS.		T ^x s	Exc.	Where Carried.
1st	Pasquotank	1945		
	Perquimons	1571		
		3516		
	Ratio	2766	750	C'd to Cam. & Cur. 582
			582	
			168	Lost.
3d	Camden	1139		
	Currituck	1045		
	Ex. Pasquo. & Perqu'm	582		
		2766		
	Ratio	2766		
3d	Gates	1354		
	Chowan	1856		
		3210		
	Ratio	2766	444	Carried to Hertford.
4th	Washington	1190		
	Tyrrell	643		
	Hyde	1172		
		3005		
	Ratio	2766	239	Lost.
5th	Northampton	2469		
	Ex. Halifax	297		
		2766		
	Ratio	2766		

DIVISION CONTINUED.

DISTRICTS.	Tx's	Exc.	Where Carried.
6th Hertford	1736		
Ex. Gates & Chowan	444		
	2180		
Ratio	2766		586 Deficit.
7th Bertie	2663		
Ex. Halifax	103		
	2766		
Ratio	2766		
8th Martin	1667		
Ex. Edgecombe	1099		
	2766		
Ratio	2766		
9th Halifax	3461		
Ratio	2766		
		695	Carried to Bertie 103
			To Northampton 297
			To Nash 288
			<hr/>
		688	688
		7	Lost.
10th Edgecombe	4515		
Ratio	2766		
		1749	Carried to Wayne 292
			To Martin 1099
			To Nash 358
			<hr/>
			1749
11th Pitt	2412		
Ex. Craven	354		
	2766		
Ratio	2766		
12th Beaufort	2514		
Ex. Craven	252		
	2766		
Ratio	2766		

DIVISION CONTINUED.

DISTRICTS.	Tx's	Exc.	Where Carried.
13th Craven	3905		Carried to Beaufort 252
Ratio	2766		To Pitt 354
		1139	
			606
		606	
		533	Lost.
14th Onslow	1163		
Carteret	707		
Jones	981		
	2851		
Ratio	2766		
		85	Carried to Duplin.
15th Greene	1263		
Lenoir	1571		
	2834		
Ratio	2766		
		68	Carried to Wayne.
16th New Hanover	5584		
Ratio	2766		
		2818	Carried to Duplin 770
			To Bruns. & Col. 1168
			To Rob's. & Blad. 93
		2031	
			2031
		787	Lost.
17th Duplin	1911		
Ex. New Hanover	770		
Ex. Onsl., Cart't, Jones	85		
	2766		
Ratio	2766		
18th Robeson	1389		
Bladen	1284		
Ex. New Hanover	93		
	2766		
Ratio	2766		

DIVISION CONTINUED.

DISTRICTS.	Tx's	Exc	Where Carried.
19th Brunswick	939		
Columbus	659		
Ex. New Hanover	1168		
	2766		
Ratio	2766		
20th Cumberland	4097		
Ratio	2766		
	1331		Carried to Sampson 808
			To Rich. & Moore 262
	1076		
			1076
		255	Lost.
21st Sampson	1958		
Ex. Cumberland	808		
	2766		
Ratio	2766		
22d Wayne	2406		
Ex. Greene & Lenoir	68		
Ex. Edgecombe	292		
	2766		
	2766		
23d Johnston	1932		
Ex. Wake	834		
	2766		
Ratio	2766		
24th Wake	5323		
Ratio	2766		Carried to Johnst'n 834
	2557		To Nash 400
			To Chatham 424
			Franklin 234
	1892		
			1892
	665		Lost.

DIVISION CONTINUED.

DISTRICTS.	Tx's	Exc.	Where Carried.
25th Nash	1720		
Ex. Halifax	288		
Ex. Edgecombe	358		
Ex. Wake	409		
	2766		
	2766		
26th Franklin	2169		
Ex. Warren	363		
Ex. Wake	234		
	2766		
	Ratio 2766		
27th Warren	3129		
	Ratio 2766		
		363	Carried to Franklin.
28th Granville	3823		
	Ratio 2766		
		1057	Carried to Person 1012
		1012	
		45	Lost.
29th Person	1754		
Ex. Granville	1012		
	2766		
	Ratio 2766		
30th Orange	3014		
	Ratio 2766		
		348	Carried to Alamance.
31st Alamance	1675		
Ex. Orange	238		
	1923		
	Ratio 2766		
		843	Deficit
32d Chatham	2342		
Ex. Wake	424		
	2766		
	Ratio 2766		

DIVISION CONTINUED.

DISTRICTS.	Txs Exc.	Where Carried.
33d Randolph	1726	
Montgomery	765	
Ex. Anson & Union	275	
	2766	
Ratio	2766	
34th Richmond	1538	
Moore	960	
Ex. Cumberland	268	
	2766	
Ratio	2766	
35th Anson	2337	
Union	1110	
	3447	
Ratio	2796	Cr'd to Cab' & Stan. 311
	681	To Rand. & Mon'y. 275
	586	586
	95	Lost.
36th Guilford	2853	
Ratio	2766	
	87	Carried to Rockingham.
37th Caswell	2998	
Ratio	2766	
	132	Carried to Rockingham.
38th Rockingham	2185	
Ex. Guilford	87	
Ex. Caswell	132	
	2404	
Ratio	2766	
	362	Deficit.
39th Mecklenburg	3044	
Ratio	2766	
	278	Lost.
40th Cabarrus	1754	
Stanley	701	
Ex. Anson & Union	311	
	2766	
Ratio	2766	

DIVISION CONTINUED.

DISTRICTS.	Tx's	Exc.	Where Carried.
41st Rowan Davie	2232 1078		
	3310		
Ratio	2766	544	Car'd to Davidson, 544
42d Davidson Ex. Rowan and Davie	1861 544		
	2405		
Ratio	2766		
43d Stokes Forsythe	947 1711		
	2658		
Ratio	2766		361 Deficit.
44th Ashe Surry Yadkin Ex. Wilkes, Ired., Alex	790 682 882 315		
	2669		
Ratio	2765		108 Deficit.
45th Wilkes Iredell Alexander	831 1825 425		
	3081		
Ratio	2766		
46th Burke McDowell Caldwell Watauga	1071 763 712 286		
	2832		
Ratio	2766	315	C'd Ashe, Surry, Yad'k
		66	Lost.

DIVISION CONTINUED.

DISTRICTS,	Tx's Exc.	Where carried.
47th Lincoln Gaston Catawba	1248 1010 1097	
Ratio	3355 3766	589 Lost.
48th Rutherford Cleaveland	2030 1006	
Ratio	3036 2766	270 Lost.
49th Buncombe Henderson Madison Yancey	1302 868 334 406	
Ratio	2910 2766	144 C'd to Cher. Hayw. &c
50th Cherokee Macon Haywood Jackson	418 493 591	
Ex. Buncombe and Hen- derson	144	
Ratio	1646 2766	1120 Deficit

A BILL
TO INCORPORATE
THE
FRENCH BROAD RAILROAD
COMPANY.

RALEIGH:

SEATON GALES, PRINTER TO THE LEGISLATURE.

—0—

1852.

[Introduced by Mr. WOODRIF — Passed the first reading,
and ordered to be printed.]

A BILL

To incorporate the French Broad Railroad Company.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That, for the purpose of establishing a communication by Railroad from Spartanburg court house, or Greenville court house, in South Carolina, to some point on the Virginia and East Tennessee Railroad, in East Tennessee, across the Western portion of North Carolina, along the valley of the French Broad river, so as to effect a direct connection between one of said points in South Carolina and the said Virginia and East Tennessee Railroad, in East Tennessee, the formation of a Company, to be called the French Broad Railroad Company, is hereby authorised, which, when formed, shall have corporate existence in perpetuity, in each of the States aforesaid.

II. *Be it further enacted*, That the said company be, and the same is hereby, authorised to construct a railroad from Spartanburg court house, or Greenville court house, in South Carolina, as they may prefer, to such point on the Virginia and East Tennessee Railroad, in East Tennessee, as they may prefer, running across the western part of this State, along the valley of the French Broad river, or such other route as they may determine on after the organization of the company : and that said company, when formed in compliance with the conditions hereinafter prescribed, shall have a corporate existence as a body politic for the term of one hundred and ninety years.

III. *Be it further enacted*, That the capital stock of said
 2 company shall be two millions of dollars ; and that, for
 3 the purpose of creating the said capital stock, the fol-
 4 lowing persons be, and the same are hereby, appointed
 5 commissioners, namely : N. W. Woodfin, James W.
 6 Patton, Will. D. R. Rankin, James M. Alexander, and
 7 Montroville Patton, of Buncombe county, in this State ;
 8 John E. Patton, A. E. Beard, and John A. Fagg, of
 9 Madison county, in this State ; Daniel Blake and D. B.
 10 Miller, of Henderson county, in this State ; Columbus
 11 Mills, of Rutherford county, in this State : Simpson
 12 Bobo and H. H. Thompson, of Spartanburg district, in
 13 the State of South Carolina ; C. J. Elford and Perry
 14 Dunkin, of Greenville district, in the State of South
 15 Carolina ; and Lawson Franklin, of Cocke county, in
 16 the State of Tennessee,

17 That it shall be the duty of the said commissioners to
 18 direct the opening of books of subscription of stock at
 19 such times and places, and under the direction of such
 20 persons as they, or a majority of them, may deem pro-
 21 per ; and the said commissioners shall have power to
 22 appoint a chairman of their body, treasurer, and all
 23 other officers, and to sue for and recover all sums of
 24 money that ought, under this act, to be received by
 25 them.

IV. *Be it further enacted*, That all persons who are, or
 2 may hereafter be authorized to open books for subscrip-
 3 tion of stock by the commissioners herein appointed for
 4 that purpose, shall open said books at any time after the
 5 ratification of this act, twenty days' previous notice be-
 6 ing given in some one or more of the public newspa-
 7 pers in this State ; and that the said books, when open-

8 ed, shall be kept open for the space of thirty days at
9 least, and as long thereafter as the commissioners first
10 above named shall direct; and that all subscription of
11 stock shall be in shares of one hundred dollars, the sub-
12 scriber paying, at the time of making such subscription,
13 the sum of one dollar on each share thus subscribed, to
14 the person or persons authorized to receive such sub-
15 scription; and, in case of failure to pay said sum, all
16 such subscriptions shall be void, if the commissioners
17 choose to declare it, or they may direct it to be recov-
18 ered by suit or otherwise; and, upon closing the books,
19 all such sums as shall have been thus received of sub-
20 scribers, on the first cash instalment, shall be paid over
21 to the general commissioners hereinbefore named by the
22 persons receiving them; and for failure thereof, such
23 person or persons shall be personally liable to said gen-
24 eral commissioners before the organization of said com-
25 pany, and to the company itself, after its organization,
26 to be recovered in the Superior Court of law within
27 this State, in the county where such delinquent resides,
28 or, if he reside in any other State, then in any court in
29 such State having competent jurisdiction. Then the
30 said general commissioners shall have power to call on
31 and require, all persons empowered to receive subscrip-
32 tions of stock, at any time, and from time to time, as a
33 majority of them may think proper, to make a return of
34 the stock by them respectively received, and to make
35 payments of all sums made by the subscribers; that all
36 persons receiving subscriptions of stock shall pass a re-
37 ceipt to the subscriber or subscribers for the payment of
38 the first instalment, as heretofore required to be paid;
39 and, upon their settlement with said general commis-
40 sioners as aforesaid, it shall be the duty of the said gen-
41 eral commissioners, in like manner, to pass their receipt
42 for all sums thus received, to the person from whom re-
43 ceived, and such receipts shall be taken and held to be

44 good and sufficient vouchers for the persons holding
45 the same.

V. *Be it further enacted*, That it shall be the duty of
2 said general commissioners to direct and authorise the
3 keeping open of books for the subscription of stock in
4 the manner above described, until the sum of one mill-
5 ion of dollars shall have been subscribed to the capital
6 stock of said company ; and as soon as the sum of one
7 million of dollars shall have been subcribed, and the
8 first instalment of one dollar per share on said stock
9 shall have been received by the general commissioners,
10 said company shall be regarded as formed : and the
11 said commissioners, or a majority of them, shall sign and
12 seal a duplicate declaration to that effect, with the names
13 of the subscribers appended, and cause one of the said
14 duplicates to be deposited in the office of the Secretary
15 of State ; and thenceforth, from the closing of the
16 books of subscription as aforesaid, the said subscribers
17 to the stock shall form one body politic and coporate, in
18 deed and in law, by the name and style of the French
19 Broad Railroad Company.

VI. *Be it further enacted*, That, whenever the sum of
2 one million of dollars shall be subscribed, in manner
3 aforesaid, the subscribers, their executors, administra-
4 tors and assigns, shall be, and they are hereby declared
5 to be, incorporated into a company by the name and
6 style of the French Broad Railroad Company, and by
7 that name shall be capable in law and equity, of purcha-
8 sing, holding, leasing and conveying estates, real, per-
9 sonal and mixed, and of acquiring the same by gift or
10 devise, so far as shall be necessary for the purposes em-
11 braced within the scope, object and intent of this char-
12 ter, and no further ; and shall have perpetual success-
13 ion ; and by their corporate name may sue and be sued,

14 plead and be impleaded in any court of law and equity
 15 in the State of North Carolina; and may have and use a
 16 common seal, which they may alter and renew at pleas-
 17 ure; and may have and enjoy all other rights and im-
 18 munities which other corporate bodies may and of right
 19 do exercise; and may make all such by laws, rules and
 20 regulations as are necessary for the government of the
 21 corporation, or effecting the object for which it is crea-
 22 ted, not inconsistent with the constitution and laws of
 23 the United States or of the State of North Carolina.

VII. *Be it further enacted*, That notice of process upon
 2 the principal agents of said company, or the president
 3 or directors, or any of them, shall be deemed and taken
 4 to be due and lawful notice of service of such process
 5 upon the company, so as to bring it before any Court
 6 within the State of North Carolina.

VIII. *Be it further enacted*, That, as soon as the sum of
 2 one million of dollars shall have been subscribed, in
 3 manner aforesaid, it shall be the duty of the general
 4 commissioners, appointed herein, to appoint a time and
 5 place for the stockholders to meet, which they shall
 6 cause to be previously published, for the space of thirty
 7 days, in one or more newspapers, as they may deem
 8 proper; at which time and place, the said stockholders,
 9 in person or proxy, shall proceed to elect twelve direc-
 10 tors of the company, and to enact all such by-laws, rules
 11 and regulations, as may be necessary for the govern-
 12 ment of the corporation and the transaction of its bu-
 13 siness. The persons elected directors at this meeting,
 14 shall serve such a period as the stockholders may direct;
 15 and at this meeting, the stockholders shall fix on the
 16 place or places, where the subsequent election of direc-
 17 tors shall be held; and such elections shall thereafter be
 18 annually made; but, if the day of the annual election
 19 should pass without any election of directors, the cor-
 20 poration shall not thereby be dissolved, but it shall be
 21 lawful on any other day to hold and make such election
 22 in such manner as may be prescribed by the rules or
 23 by-laws of the corporation.

IX. *Be it further enacted*, That the affairs of the company shall be managed and directed by a general board, to consist of twelve directors, to be elected by the stockholders from among their number, at the first and subsequent general annual meetings, as prescribed in the eighth section of this act.

X. *Be it further enacted*, That the election of directors shall be by ballot, each stockholder having as many votes as he has shares in the stock of said company; and the person having a majority of all the votes polled, shall be considered as duly elected: *Provided*, That said company may fix any other scale of voting to govern all subsequent elections.

XI. *Be it further enacted*, That the president of the company shall be elected by the directors from among their own number, in such manner as the regulations of the company shall prescribe.

XII. *Be it further enacted*, That, at the first general meeting of the stockholders, directed to be called under section eighth of this act, a majority of all the shares subscribed shall be represented before proceeding to business; and, if a sufficient number do not appear on the day appointed, those who do attend shall have power to adjourn from time to time, until a regular meeting shall be thus formed; and at such meeting the stockholders may provide by law, as to the number of stockholders and the amount of stock to be held by them, which shall constitute a quorum for the transaction of business at all subsequent regular or occasional meetings of stockholders and directors.

XIII. *Be it further enacted*, That at all elections, and upon all votes taken, in any general meeting of the stockholders, upon any by law, or any of the affairs of said company, each share of stock shall be entitled to one vote, and that any stockholder in said company may vote by proxy; and proxies may be verified in such manner as the stockholders by law may prescribe.

XIV. *Be it further enacted*, That the general commissioners shall make their return of the shares of stock

3 subscribed for, at the first general meeting of stock-
 4 holders, and pay over to the directors elected at said
 5 meeting, or their authorised agent, all sums of money
 6 received from subscribers; and, for failure thereof, shall
 7 be liable to said company, to be recovered at the suit of
 8 said company, before any tribunal having jurisdiction
 9 of the same, within the county where such delinquent
 10 or delinquents may reside, and in like manner from said
 11 delinquent or delinquents, executors or administrators,
 12 in case of his or her death.

XV. *Be it further enacted*, That the board of direc-
 2 tors may fill all vacancies which may occur in it dur-
 3 ing the period for which they have been elected, and,
 4 in the absence of the president, may appoint one *pro*
 5 *tempore* from among their number.

XVI. *Be it further enacted*, That all contracts or agree-
 2 ments, authenticated by the president and secretary of
 3 the board of directors, shall be binding on the company
 4 without a seal, or such a mode of authentication may be
 5 used as the company, by their by-laws, may adopt.

XVII. *Be it further enacted*, That the company shall
 2 have power, and may proceed to construct, as speedily
 3 as possible, a railroad with one or more tracks, to be
 4 used with steam power, which may be extended from
 5 Spartanburg Court House or Greenville Court House,
 6 in South Carolina, as they may prefer, to such point on
 7 Railroad, in East
 8 Tennessee, as they may prefer, running across the wes-
 9 tern part of this State, along the Valley of the French
 10 Broad river, or such other route as the said company
 11 shall determine; and said company may use any section
 12 or part of said road, made by them, before the whole of
 13 said road is completed.

XVIII. *Be it further enacted*, That the said company
 2 shall have the exclusive right of conveyance or trans-
 3 portation of persons, goods, merchandise and produce
 4 over the said railroad, to be by them constructed, at such
 5 charges as may be fixed on by a majority of said com-
 6 pany.

XIX. *Be it further enacted*, that the said company may,
 2 when they see fit, farm out their right of transportation
 3 over said railroad, subject to the rules above mentioned,
 4 and the said company, and every one who may have re-
 5 ceived from them the right of transportation of goods
 6 wares and merchandise over the said railroad, shall be
 7 deemed and taken to be a common carrier, as respects
 8 all goods, wares, produce and merchandise entrusted to
 9 them for transportation.

XX. *Be it further enacted*, That the board of directors
 2 may call for the payment of the sums subscribed as
 3 stock in said company, in such instalments as the inter-
 4 est of said company may, in their opinion, require ;
 5 the call for each payment shall be published in one or
 6 more newspapers published in this State, for at least
 7 one month before the day of payment ; and, on failure
 8 of any stockholder to pay each instalment, as thus re-
 9 quired, the directors may sell at public auction, on a
 10 previous notice of ten days, for cash, all the stock sub-
 11 scribed for in said company, by such stockholder, and
 12 convey the same to the purchaser at said sale ; and if
 13 the said sale of stock do not produce a sum sufficient to
 14 pay off the incidental expenses of said sale, and the en-
 15 tire amount, due to said company, for such subscription
 16 of stock, then, and in that case, the whole of such
 17 balance shall be held as due at once to said company,
 18 and may be recovered of such stockholder or his ex-
 19 ecutors, administrators or assigns, at the suit of said
 20 company, either by summary motion in any Court of
 21 superior jurisdiction in the county where the delinquent
 22 resides, on a previous notice of ten days to such delin-
 23 quent subscriber, or by action of assumpsit in any
 24 Court of competent jurisdiction, or by a warrant before
 25 a Justice of the Peace, when the sum does not exceed
 26 one hundred dollars, and in case of the assignment of
 27 stock, before the whole amount has been paid to the
 28 company, then for all sums due on such stock, both the
 29 original subscribers, and the first and all subsequent
 30 assignees, shall be liable to the company, and the same
 31 may be recovered as above described.

XXI. *Be it further enacted*, That the debt of stockhol-
 2 ders, due to the company for stock therein, either as

3 original proprietor, or as first or subsequent assignee,
4 shall be considered as of equal dignity with judgments
5 in the distribution of assets of a deceased stockholder,
6 by his personal representatives.

XXII. *Be it further enacted,* That said company shall
2 issue certificates of stock to its members; and said stock
3 may be transferred in such manner and form as may be
4 directed by the by-laws of the company.

XXIII. *Be it further enacted,* That the said company
2 may at any time increase its capital to a sum sufficient
3 to complete said road, not exceeding one million of dol-
4 lars, by opening books for the subscription of stock, or
5 by selling such new stock, or by borrowing money on
6 the credit of the company, and on the mortgage of its
7 charter and works, and the manner in which the same
8 shall be done, in either case, shall be prescribed by the
9 stockholders in a general meeting.

XXIV. *Be it further enacted,* That the board of direc-
2 tors shall, once in every year at least, make a full report
3 on the state of the company and its affairs, to a general
4 meeting of the stockholders, and oftener if required by
5 a by-law; and shall have power to call a general meet-
6 ing of the stockholders, when the board may deem it
7 expedient; and the company may provide, by their by-
8 laws, for occasional meetings being called, and prescribe
9 the mode thereof.

XXV. *Be it further enacted,* That the said company
2 may purchase, have, and hold in fee, or for a term of
3 years, any lands, tenements, or hereditaments, which
4 may be necessary for the said road, or the appurtenances
5 thereof, or for the erection of depositories, store houses,
6 houses for the officers, servants or agents of the com-
7 pany, or for workshops or foundries, to be used for the
8 said company, or for procuring stone or other materials
9 necessary for said company in the construction or re-
10 pairs of the road, or for effecting transportation thereon,
11 and for no other purposes.

XXVI. *Be it further enacted,* That the company shall
2 have the right, when necessary, to construct the said

3 road across or along any public road or water course ;
 4 *Provided*, That said company shall not obstruct any
 5 public road, without constructing another equally as
 6 convenient and good.

XXVII. *Be it further enacted*, That, when any lands,
 2 or right of way, may be required for said company, for
 3 the purpose of constructing their road, and, for the want
 4 of agreement as to the value thereof, or, from any other
 5 cause, the same cannot be purchased from the owner
 6 or owners, the same may be taken at a valuation, to be
 7 made by five commissioners. or a majority of them, to
 8 be appointed by any court of record having common
 9 law jurisdiction, in the county where some part of the
 10 right of way is situated. In making the said valua-
 11 tion, the said commissioners shall take into considera-
 12 tion the loss or damage which may accrue to the own-
 13 er or owners in consequence of the land or right of
 14 way being surrendered, and the benefit and advantage
 15 he, she or they may receive from the erection or estab-
 16 lishment of the railroad or work, and shall state parti-
 17 cularly the value and amount of each ; and the excess
 18 of loss and damage, over and above the advantage and
 19 benefit, shall form the measure of valuation of right of
 20 way : *Provided*, nevertheless, That, if any person or
 21 persons, over whose land the road may pass, shall be
 22 dissatisfied with the valuation of said commissioners,
 23 then, and in that case, the person or persons so dissatis-
 24 fied may have an appeal to the superior court in the
 25 county where the said valuation has been made, or in
 26 either county in which the land lies, when it may lie
 27 in more than one county, under the same rules, regula-
 28 tions and restrictions as in appeals from judgments of
 29 justices of the peace. The proceedings of the
 30 said commissioners, accompanied with a full descrip-
 31 tion of said land, or right of way, shall be return-
 32 ed, under the hands and seals of a majority of the com-
 33 missioners, to the court from which the same issued,
 34 there to remain a matter of record. And the lands or
 35 right of way, so valued by said commissioners, shall
 36 vest in said company so long as the same shall be used
 37 for the purposes of said railroad, so soon as the valua-
 38 tion may be paid, or, when refused, may have been ten-
 39 dered : *Provided*, That, on application for the appoint-

40 ment of commissioners under this section, it shall be
 41 made to appear, to the satisfaction of the court, that at
 42 least ten days' previous notice has been given by the
 43 applicant to the owner or owners of land so proposed to
 44 be condemned; or, if the owner or owners be infants,
 45 or non compos mentis, then to the guardian of such
 46 owner or owners, if such guardian can be found within
 47 the county, or, if he cannot be so found, then such
 48 appointment shall not be made unless notice of the
 49 application shall have been published at least one month
 50 next preceding, in some newspaper printed as near as
 51 may be to the court house of the county, and shall
 52 have been posted at the door of the court house, on the
 53 first day of the term of said court to which the applica-
 54 tion is made: *Provided, further,* That the valuation pro-
 55 vided for in this section shall be made on oath, by the com-
 56 missioners aforesaid, which oath any justice of the peace
 57 or clerk of the court of the county in which the land
 58 or a part of it lies, is hereby authorised to administer:
 59 *Provided, further,* That the right of condemnation
 60 hereby granted shall not authorise the said company
 61 to invade the dwelling house, yard, garden or burial
 62 ground of an individual without his consent.

XXVIII. *Be it further enacted,* That the right of said
 2 company to condemn in the manner described in the
 3 27th section of this act, shall extend to the condemn-
 4 ing one hundred feet on each side of the main track of
 5 the road, measuring from the centre of the same, unless
 6 in case of deep cuts and filling, when the said company
 7 shall have power to condemn as much in addition
 8 thereto as may be necessary for the purpose of con-
 9 structing said road; and the company shall also have
 10 power to condemn any appropriate lands in like manner,
 11 for the constructing and building of depots, shops, ware-
 12 houses, buildings for servants, agents and persons em-
 13 ployed on the road, not exceeding two acres in any one
 14 lot or station.

XXIX. *Be it further enacted,* That, in the absence of
 2 any contract or contracts with said company, in relation
 3 to lands through which the said road or its branches
 4 may pass, signed by the owner thereof, or by his agent
 5 or any claimant or person in possession thereof, which

6 may be confirmed by the owner thereof, it shall be pre-
 7 sumed that the land upon which the said road or any of
 8 its branches may be constructed, together with one hun-
 9 dred feet on each side of the centre of the said road,
 10 has been granted to the said company, by the owner or
 11 owners thereof; and the said company shall have good
 12 right and title thereto, and shall hold and enjoy the
 13 same as long as the same shall be used for the purposes
 14 of said road and no longer, unless the person or persons
 15 owning the said land at the time that part of the said
 16 road which may be on the said land, was finished; or
 17 those claiming under him, her or them, shall apply for
 18 an assessment of the value of said lands, as hereinbefore
 19 directed, within two years next after that part of the
 20 said road, which may be on the said land, was finished;
 21 and in case the said owner or owners, or those claim-
 22 ing under him, her or them, shall not apply within two
 23 years next after the said part was finished, he, she or
 24 they shall be forever barred from recovering said land,
 25 or having any assessment or compensation therefor:
 26 *Provided*, That nothing herein contained shall affect
 27 the rights of *feme coverts* or infants, until two years
 28 after the removal of their respective disabilities.

XXX. *Be it further enacted*, That all lands not hereto-
 2 fore granted to any person, nor appropriated by law to
 3 the use of the State, within one hundred feet of the
 4 centre of the road, which may be constructed by the
 5 said company, shall vest in the company as soon as the
 6 line of the road is definitely laid out through it, and any
 7 grant of land thereafter shall be void.

XXXI. *Be it further enacted*, Thrt, if any person or
 2 persons shall intrude upon the said railroad by any
 3 manner of use thereof, of the rights and privileges con-
 4 nected therewith, without permission, or contrary to
 5 the will of the said company, he, she or they may be
 6 indicted for misdemeanor, and upon conviction may be
 7 fined and imprisoned by any Court of competent juris-
 8 diction in this State.

XXXII. *Be it further enacted*, That if any person shall
 2 wilfully and maliciously destroy, or in any manner hurt
 3 or damage or obstruct, or shall wilfully and maliciously

4 cause or aid, or assist or counsel or advise any other
 5 person or persons to destroy, or in any manner to hurt,
 6 damage or destroy, or injure or obstruct the said railroad,
 7 or any bridge or vehicle used for or in transportation
 8 thereon, any water tank, warehouse, or any other pro-
 9 perty of said company, such person or persons so offend-
 10 ing shall be liable to be indicted therefor, and on convic-
 11 tion, shall be imprisoned not more than six, nor less than
 12 one month, and pay a fine, not exceeding five hundred
 13 dollars, nor less than twenty dollars, at the discretion
 14 of the court before which such conviction shall take
 15 place; and shall be further liable to pay all expenses of
 16 repairing the same; and it shall not be competent for
 17 any person so offending against the provisions of this
 18 clause, to defend himself by pleading or giving in evi-
 19 dence, that he was the owner, agent or servant of the
 20 land where such destruction, hurt, damage, injury or
 21 obstruction was done, at the time the same was done,
 22 or caused to be done.

XXXIII. *Be it further enacted*, That every obstruction
 2 to the safe and free passage of vehicles on the said road
 3 or its branches, shall be deemed a public nuisance, and
 4 may be abated as such by any officer, agent or servant
 5 of said company; and the person causing such obstruc-
 6 tion may be indicted and punished for erecting a pub-
 7 lic nuisance.

XXXIV. *Be it further enacted*, That the said company
 2 shall have the right to take at the storehouses erected
 3 by them on the said railroad, or connected therewith,
 4 or on its branches, goods, merchandise, and produce in-
 5 tended for transportation, prescribe the rules of priority
 6 and charge, and receive such just compensation for
 7 storage as they by rules may establish, (which they
 8 shall cause to be published) or as may be fixed by agree-
 9 ment with the owner, which may be distinct from the
 10 rates of transportation: *Provided*, That the said com-
 11 pany shall not charge or receive storage on goods,
 12 wares, merchandise or produce which may be delivered
 13 to them at their regular depositories for immediate
 14 transportation, and which the said company may have
 15 power to transport immediately.

XXXV. *Be it further enacted*, That the profits of the
 2 company, or so much thereof as the general board may
 3 deem advisable, shall when the affairs of the company
 4 will permit, be semi-annually divided among the stock-
 5 holders in proportion to the stock each may own.

XXXVI. *Be it further enacted*, That the following offi-
 2 cers and servants and persons in the actual employment
 3 of the said company, be, and they are hereby exempted
 4 from the performance of jury and ordinary military duty :
 5 The president and treasurer of the board of directors,
 6 and the chief and assistant engineers, the secretaries and
 7 accountants of the company, keepers of the depositories,
 8 guard stationed on the road to protect it from injury,
 9 and such persons as may be working the locomotive
 10 engines travelling with cars for the purpose of attend-
 11 ing to the transporting of produce, goods and passen-
 12 gers on the road.

XXXVII. *Be it further enacted*, That the said company
 2 shall be entitled to all such powers and privileges, as
 3 shall be granted to it by all the legislatures incorporating
 4 it, and the power necessary and proper to give them
 5 effect, and shall be subject to all the restrictions and
 6 disabilities which may be imposed on it by any of the
 7 said legislatures, by the act of incorporation, so that the
 8 power, privileges and disabilities may be similar in all
 9 the States, of North Carolina, South Carolina, and Ten-
 10 nessee : *Provided however*, that this act of incorporation
 11 shall enure and be in force, in each and every of the
 12 States aforesaid, that may pass similar act, in case
 13 any one or more of said States may neglect or refuse
 14 to pass such act.

XXXVIII. *Be it further enacted*, That this act shall be
 2 regarded as a public act, and may be given in evidence
 3 as such in all cases without special pleading.

A BILL

TO ENCOURAGE AGRICULTURE,

DOMESTIC MANUFACTURES,

AND THE

MECHANIC ARTS;

TOGETHER WITH THE REPORT OF THE

COMMITTEE ON AGRICULTURE.

RALEIGH:

BEATON GALES, PRINTER TO THE LEGISLATURE.

1862.]

[Introduced by Mr. WOODFIN.—Referred to the Committee on Agriculture, and ordered to be printed.]

A BILL

To encourage Agriculture, Domestic Manufactures, and the
Mechanic Arts.

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by the autho-*
3 *rity of the same,* That it shall be lawful for any num-
4 ber of persons, in any county in this State, to associate
5 together and form a County Society to encourage and
6 promote agriculture, domestic manufactures, and the
7 mechanic arts therein; and any such society, when or-
8 ganised, according to the provisions of this act, shall
9 have all the powers of a corporation or body politic, and
10 may sue and be sued, implead and be impleaded, prose-
11 cute and defend to final judgment and execution, in any
12 court of law and equity, or other tribunal having juris-
13 diction of the sum in dispute; and may purchase and
14 hold all the real estate which shall be necessary to best
15 promote the objects of said association, and which es-
16 tate shall be exclusively devoted to such object.

II. *Be it further enacted,* That such society shall be
2 formed by written articles of association, subscribed by
3 the members thereof, specifying the objects of said so-
4 ciety, and the conditions on which the subscribers shall
5 become members thereof; and the first meeting shall be

6 notified and held in the manner prescribed in the arti-
 7 cles of association. They may adopt a corporate name,
 8 either in the original articles of association, or by vote
 9 at the first meeting thereof in which such society shall
 10 be organized, and may, at any meeting, adopt a corpo-
 11 rate seal, and alter the same at pleasure.

II. *Be it further enacted*, That such societies, not ex-
 2 ceeding one in each county, shall be organised by ap-
 3 pointing a president, two vice presidents, secretary and
 4 treasurer, and such other officers as they may deem pro-
 5 per, to be chosen annually, and to hold their places until
 6 others are appointed.

IV. *Be it further enacted*, That, whenever such socie-
 2 ties are organised, as aforesaid, they shall have power
 3 to adopt all such by-laws, rules, and regulations as they
 4 shall judge necessary and expedient to promote the ob-
 5 jects thereof, not inconsistent with the laws of this State
 6 or of the United States.

V. *Be it further enacted*, That it shall be the duty of
 2 the secretary or clerk of such society to keep fair re-
 3 cords of the proceedings of the same, in a book provid-
 4 ed for that purpose; and such books may be read in
 5 evidence in any suit in which the said corporation is
 6 concerned.

VI. *Be it further enacted*, That, when it shall be made
 2 to appear to the satisfaction of the treasurer of this
 3 State, that any such society is duly organized in any
 4 county, according to the provisions of this act, it shall
 5 be the duty of the treasurer aforesaid to pay annually,
 6 to the treasurer of every such society so organised as
 7 aforesaid, or to his order, on application made therefor,
 8 the sum of fifty dollars: *Provided, nevertheless*, That

9 no such society shall draw out of the treasury of this
 10 State as aforesaid, in any year, until it shall be made
 11 further to appear to the satisfaction of the treasurer
 12 thereof, that there shall have been subscribed and paid
 13 into the treasury of such society, for the sole use and
 14 benefit thereof, for the year in question, the like sum of
 15 fifty dollars.

VIII. *Be it further enacted*, That all money so subscrib-
 2 ed, as well as that received from the State treasury, as
 3 herein provided, shall, after paying the necessary inci-
 4 dental expenses of such societies, respectively, be an-
 5 nually paid out for premiums, awarded by such socie-
 6 ties, in such sums and in such way and manner as they,
 7 severally, under their by-laws, rules and regulations
 8 shall direct, on such live animals, articles of production,
 9 and agricultural implements and tools, domestic manu-
 10 factures, mechanical improvements, and productions, as
 11 are of the growth and manufacture of the county; and
 12 also on such experiments, discoveries or attainments in
 13 scientific or practical agriculture as are made within
 14 the county where such societies are respectively or-
 15 ganised.

VIII. *Be it further enacted*, That each agricultural so-
 2 ciety entitled to receive money from the State treasury,
 3 shall, through its treasurer, transmit to the treasurer of
 4 the State, in the month of December, or before, a state-
 5 ment of the money so received from the State, together
 6 with the amount received from the members of the so-
 7 ciety for the preceding year; a statement of the expen-
 8 diture of all such sums, and the number of the members
 9 of said society.

IX. *Be it further enacted*, That each agricultural society
 2 receiving money from the State, as aforesaid, shall, in
 3 each year, publish at their own expense a full statement

4 of their experiments, improvements and reports of their
5 committees, in at least one newspaper published in such
6 county ; or, in case there be no newspaper published in
7 such county, then in the nearest newspaper thereto :
8 And evidence that the requirements of this act have
9 been complied with shall be furnished to the state trea-
10 surer, before he shall pay over to such society the said
11 sum of fifty dollars for the benefit of such society for the
12 next year.

[Presented by Mr. STEELE.]

REPORT

OF THE

COMMITTEE ON AGRICULTURE.



The committee on Agriculture, to whom was referred, "a bill to encourage agriculture, domestic manufactures and the mechanic arts," have had the same under consideration, and beg leave to

REPORT :

That, although the Senatorial branch of the General Assembly was designed, in a great measure, to represent, protect and encourage the agricultural interests of the State, it has never, before the present session, as we believe, had a committee charged with this important subject. The cause of this neglect, we are unable to state; but are pleased that the acknowledged claims of the farming interest, upon the attention of Legislators, are at least recognised, in our existence as a committee.

The prosperity of the people of our State is mainly dependant upon the successful cultivation of the soil. If agriculture languishes, no pursuit followed by man can flourish. The productions of the earth, brought forth by skilful tillage, and increased by the application of science, both as regards the implements used in agricultural labor,

and the fertilizer employed to enlarge the yield, constitute the foundation upon which rests our happiness as a people, and our healthy progress as a State. This being true, it is indeed strange that more has not been done by the representatives of the people, for its advancement. Almost every other branch of industry has had the encouragement of law; and yet this, the main calling and prop of our people, and which must ever continue to be so, has received no other aid than what was found in the general legislation of the State. It is no wonder, then, that the farming population have complained of our neglect. No wonder that many of our constituents have upbraided us, on our return among them, for remaining so long at their seat of government, and doing so little for the promotion of agricultural improvement.

Your committee flatter themselves, that a birth day is dawning upon us. They believe that, by the passage of the accompanying bill, a laudable emulation for agricultural and mechanical excellence will be incited, tending to show the capacity of a soil improved by intelligent culture, and to exhibit the skill of our artisans in useful inventions.

The sum proposed to be annually appropriated for the furtherance of the objects of the bill, is, considering its design, of too little consequence to cause any one to hesitate as to the course which he shall pursue. If the amount were ten times as great, it would be wisely used for the ends indicated, even though no immediate benefit should ensue. The results of such a system as that projected here, in operation in several of our sister States, clearly demonstrate the beneficial efforts of agricultural associations, in awakening the pride, stimulating the energies, and improving the condition of the people. In some, these societies receive the direct aid of the public treasury. In others, the funds raised are the voluntary contributions of patriotic and valuable citizens; but, from whatever source derived, the effort has invariably been of the most beneficial character.

Pride and ambition, as well as self-interest, are very necessary in making mankind excel in any thing. The societies proposed to be encouraged, will, it is expected and intended by the bill, excite both these powerful agents, by offering inducements to successful competitors, and thus produce honorable rivalry among the yeomanry of the land. Then the tilling of the soil will become a pleasant occupation, and skilful agriculture follow, bringing in its train rich harvests and happy homes.

Your committee repeat, that the sum proposed to be annually distributed among the several agricultural associations, which may be formed, is of little moment, compared with the immense benefit which it will be instrumental in producing. We cannot otherwise believe, than that the increased productions of the soil, consequent upon the outlay, together with the appreciation of landed and other property, which must inevitably follow, will more than compensate our people for the expenditure incurred. Still, we place the claims of this bill upon higher grounds. We claim its passage, as a right belonging to the cultivators of our soil, the granting of which is a duty imperatively enjoined upon their faithful and trustworthy representatives, and will be eagerly acknowledged and performed.

Your committee, therefore, have *unanimously* agreed to report the said bill back to the Senate, with the accompanying amendments, and recommend its passage.

Respectfully submitted,

WALTER L. STEELE, Ch'n,

N. W. WOODFIN,

RICHARD H. PARKS,

HENRY T. CLARKE,

GEO. D. BOYD,

JOHN W. CUNNINGHAM,

RICHARD G. COWPER,

GEO. H. McMILLAN,

JAMES P. SPEIGHT,

Committee.

AMENDMENTS.

1st Amendment. After the word "persons," in the fifth line of the first section, insert "not less than ten."

2d Amendment. After the word "State," in the fourth line of the 6th section, insert, "by the certificate under seal of the Clerk of the Court of Pleas and Quarter Sessions."

3d Amendment. Insert, after the word "published," in the 8th line of the ninth section, the words "in this State," and strike out the following words from the same section, namely: "in such county, or in case there be no newspaper published in such county, then in the nearest newspaper thereto."

[Introduced by Mr. BOYD.—Read first time and passed, and ordered to be printed.]

A BILL

To apportion the Members of the House of Commons among the several Counties in this State.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That until the first session of the General Assembly, after the year one thousand eight hundred and seventy-one, the House of Commons shall be composed of members elected from the counties in the following manner: The counties of Granville, Guilford, Cumberland and Wake shall elect three members each; the counties of Alamance, Anson, Beaufort, Bertie, Caswell, Chatham, Cleaveland, Craven, Davidson, Duplin, Edgecombe, Forsythe, Franklin, Halifax, Iredell, Johnston, Mecklenburg, New Hanover, Northampton, Orange, Pitt, Randolph, Robeson, Rockingham, Rowan, Rutherford, Sampson, Warren, Wayne and Wilkes, shall elect two members each; the counties of Alexander, Ashe, Bladen, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Camden, Carteret, Catawba, Cherokee, Chowan, Columbus, Currituck, Davie, Gaston, Gates, Green, Haywood, Henderson, Hertford, Hyde, Jones, Jackson, Lenoir, Lincoln, McDowell, Macon, Madison, Martin, Montgomery, Moore, Nash, Onslow, Pasquotank, Perquimons, Person, Richmond, Stanly, Stokes, Surry, Tyrrell, Union, Washington, Watauga, Yadkin and Yancey, shall elect one member each, under the same rules and regulations as are now provided by law: *Provided*, that nothing in this act-contained shall be so construed as to affect the manner of holding an election for members of the House of Commons, before the next regular election, to be holden on the first Thursday in August, one thousand eight hundred and fifty-four.

II. *Be it further enacted,* That this act shall be in force and take effect from and after its ratification.

HOUSE OF COMMONS.

Aggregate Federal Population of the State,	754,285
The 120th part of 754,285 is	6,285.
Deduct Federal Population of 20 Counties, not having 120th part of entire population,	102,232
	<hr/> 652,023 <hr/>

120 Members, less 20, leaves 100 Members to be apportioned.

652,053 divided by 100, gives as the ratio for one Member,	6,520
Ratio for two Members,	13,040
Ratio for three Members,	19,560

THE HOUSE OF COMMONS to be apportioned as follows, to wit:—The following Counties, deficient in the first ratio, or the 120th part, entitled to one Member each.

No.	Counties.	Federal Population.
1	Alexander	5002
2	Brunswick	5950
3	Caldwell	6004
4	Camden	5174
5	Carteret	6209
6	Chowan	5252
7	Columbus	5308
8	Currituck	6257
9	Greene	5290
10	Jones	3935
11	Jackson	
12	Lenoir	6182
13	McDowell	5741
14	Macon	6169
15	Madison, assumed	5900
16	Montgomery	6163
17	Perquimons	6023
18	Tyrrell	4447
19	Washington	4778
20	Watauga	3348
		<hr/> 102,232 <hr/>

APPORTIONMENT CONTINUED.

Counties having more than the Ratio for one member, but less than twice the Ratio, entitled to one member.

No.	Counties.	No. of Members.	Fraction.
1	Alamance	1 Member	3.642
2	Anson	1 do	4.238
3	Ashe	1 do	2.119
4	Beaufort	1 do	5.195
5	Bertie	1 do	3.501
6	Bladen	1 do	1.504
7	Buncombe	1 do as'm.	1.218
8	Burke	1 do	.399
9	Cabarrus	1 do	2.149
10	Caswell	1 do	5.641
11	Catawba	1 do	1.714
12	Cherokee	1 do	.145
13	Cleaveland	1 do	3.164
14	Craven	1 do	5.783
15	Davie	1 do	.478
16	Duplin	1 do	4.588
17	Forsythe	1 do	4.108
18	Franklin	1 do	2.990
19	Gaston	1 do	.709
20	Gates	1 do	.358
21	Halifax	1 do	6.488
22	Haywood	1 do	.555
23	Henderson	1 do	.470
24	Hertford	1 do	.126
25	Hyde	1 do	.78
26	Johnston	1 do	5.364
27	Lincoln	1 do	.404
28	Martin	1 do	.356
29	Mecklenburg	1 do	5.200
30	Moore	1 do	2.031
31	Nash	1 do	2.513
32	Northampton	1 do	4.211
33	Onslow	1 do	.520
34	Pasquotank	1 do	1.188
35	Person	1 do	2.300
36	Pitt	1 do	4.224
37	Richmond	1 do	1.416
38	Robeson	1 do	4.559

APPORTIONMENT CONTINUED:

No.	Counties.	No. of Members.	Fraction.
39	Rockingham	1 Member.	5.843
40	Rowan	1 do	5.797
41	Rutherford	1 do	5.868
42	Sampson	1 do	5.791
43	Stanly	1 do pop. 6,348	
44	Stokes	1 do	1.968
45	Surry	1 do	1 626
46	Union	1 do	2.739
47	Warren	1 do	3 847
48	Wayne	1 do	4.955
49	Wilkes	1 do	5.122
50	Yadkin	1 do	2.980
51	Yancey	1 do	1.547

COUNTIES

Having twice the Ratio, and not three times that amount,
entitled to two members each.

No.	Counties.	No. of Members.	Fractions.
1	Chatham	2 Members	2.976
2	Cumberland	2 do	4.687
3	Davidson	2 do	1.084
4	Edgecombe	2 do	.743
5	Granville	2 do	4 360
6	Guilford	2 do	5.426
7	Iredell	2 do	.024
8	New Hanover	2 do	1.196
9	Orange	2 do	1.915
10	Randolph	2 do	2 132

ONE COUNTY

Having three times the Ratio, and not four times that
amount, entitled to three Members.

Wake,	3 Members,	Fraction. 1.556
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APPORTIONMENT CONTINUED.

THE following Counties entitled to one Member each, on account of Fractions.

No.	Counties.	No. of Members.	Fractions.
1	Halifax	1 Member.	6.488
2	Beaufort	1 do	5.195
3	Caswell	1 do	5.641
4	Craven	1 do	5.783
5	Johnston	1 do	5.364
6	Mecklenburg	1 do	5.200
7	Rockingham	1 do	5.843
8	Rowan	1 do	5.797
9	Rutherford	1 do	5.868
10	Sampson	1 do	5.791
11	Wilkes	1 do	5.122
12	Guilford	1 do	5.426
13	Anson]	1 do	4.238
14	Duplin	1 do	4.588
15	Forsythe	1 do	4.108
16	Northampton	1 do	4.211
17	Pitt	1 do	4.224
18	Robeson	1 do	4.559
19	Wayne	1 do	4.955
20	Cumberland	1 do	4.687
21	Granville	1 do	4.360
22	Alamance	1 do	3.642
23	Bertie	1 do	3.501
24	Cleaveland	1 do	3.164
25	Warren	1 do	3.847
26	Franklin	1 do]	2.990

APPORTIONMENT CONTINUED.

HOUSE OF COMMONS to be composed of Representatives as follows:—

COUNTIES	Less 120 pt/ 1 member.	Ratio for 1 member.	Ratio for 2 members	1 member fract's.	Whole number.
Alamance		1		1	2
Alexander	1				1
Anson		1		1	2
Ashe		1			1
Beaufort		1		1	2
Bertie		1		1	2
Bladen		1			1
Brunswick	1				1
Buncombe		1			1
Burke		1			1
Cabarrus		1			1
Caldwell	1				1
Camden	1				1
Carteret	1				1
Caswell		1		1	2
Catawba		1			1
Chatham			2		2
Cherokee		1			1
Chowan	1				1
Cleaveland		1		1	2
Columbus	1				1
Craven		1		1	2
Cumberland			2	1	3
Currituck	1				1
Davidson			2		2
Davie		1			1
Duplin		1		1	2
Edgecombe			2		2
Forsythe		1		1	2
Franklin		1		1	2
Gaston		1			1
Gates		1			1
Granville			2	1	3
Greene	1				1
Guilford			2	1	3
Halifax		1		1	2
Haywood		1			1
Henderson		1			1

APPORTIONMENT CONTINUED.

HOUSE OF COMMONS.

COUNTIES.	Less 120 pt 1 member	Ratio for 1 member.	Ratio for 2 members.	1 member f'm fract's.	Whole number.
Hertford		1			1
Hyde		1			1
Iredell			2		2
Johnston		1		1	2
Jones	1				1
Jackson	1				1
Lenoir	1				1
Lincoln		1			1
McDowell	1				1
Macon	1				1
Madison	1				1
Martin		1			1
Mecklenburg		1		1	2
Montgomery	1				1
Moore		1			1
Nash		1			1
New Hanover			2		2
Northampton		1		1	2
Onslow		1			1
Orange			2		2
Pasquotank		1			1
Perquimans	1				1
Person		1			1
Pitt		1		1	2
Randolph			2		2
Richmond		1			1
Robeson		1		1	2
Rockingham		1		1	2
Rowan		1		1	2
Rutherford		1		1	2
Sampson		1		1	2
Stanly		1			1
Stokes		1			1
Surry		1			1
Tyrrell	1				1
Union		1			1
* Wake					3

* Three times but not four times the Ratio, entitled to three members.

APPORTIONMENT CONTINUED.

HOUSE OF COMMONS.

COUNTIES.	Less 120 pt 1 member.	Ratio for 1 member.	Ratio for 2 members	1 member f'm fract'o.	Whole number.
Warren		1			2
Washington	1				1
Watauga	1				1
Wayne		1			2
Wilkes		1			2
Yadkin		1			1
Yancey		1			1
	20	51	20	26	120

RECAPITULATION.

Members.

20 Counties, not having the 120th part of Federal Population, entitled to one member each,	20
51 Counties, having more than the Ratio, but not twice that amount, entitled to one member each,	51
10 Counties having more than twice the Ratio, but not three times that amount, entitled to two members each,	20
1 County, having more than three times the Ratio, but not more than four times that amount, entitled to three members,	3
26 Counties entitled by fractions to one member each,	26
	<hr/> 120

[Introduced by Mr. STEELE.—Read first time and passed, and ordered to be printed.]

REPRESENTATION

IN THE

HOUSE OF COMMONS.

A BILL

To apportion the representation in the House of Commons, among the several Counties in this State.

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by the author-*
3 *ity of the same, 'That until the first session of the Gen-*
4 *eral Assembly, after the year (A. D.) one thousand eight*
5 *hundred and seventy-one, the House of Commons shall be*
6 *composed of members elected from the counties in the*
7 *following manner : The counties of Cumberland, Gran-*
8 *ville, Guilford, Chatham and Wake, shall elect three*
9 *members each ; the counties of Davidson, Edgecombe,*
10 *Halifax, Iredell, New Hanover, Orange, Randolph, Ala-*
11 *mance, Anson, Beaufort, Bertie, Caswell, Cleaveland,*
12 *Craven, Duplin, Forsythe, Johnston, Mecklenburg,*
13 *Northampton, Pitt, Robeson, Rockingham, Rowan,*

14 Rutherford, Sampson, Warren, Wayne and Wilkes,
 15 shall elect two members each; the counties of Bun-
 16 combe, Madison, Surry, Yadkin, Ashe, Bladen, Burke,
 17 Cabarrus, Catawba, Cherokee, Davie, Gaston, Gates,
 18 Henderson, Hertford, Hyde, Lincoln, Martin, Moore,
 19 Nash, Onslow, Pasquotank, Person, Richmond, Stanly,
 20 Stokes, Union, Yancy, Alexander, Brunswick, Caldwell,
 21 Camden, Carteret, Columbus, Currituck, Green, Jones,
 22 Lenoir, McDowell, Montgomery, Perquimons, Tyrrell,
 23 Washington, Watauga, Macon, Haywood, Jackson,
 24 Chowan and Franklin, shall elect one member each,
 25 under the same rules and regulations as are now provided
 26 by law: *Provided*, that nothing in this act shall be so
 27 construed as to affect the manner of holding an election
 28 for members of the House of Commons, before the next
 29 regular election, to be holden on the first Thursday in
 30 August, one thousand eight hundred and fifty-four.

II. *Be it further enacted*, That this act shall be in force
 2 and take effect from and after its ratification.

TABULAR STATEMENT.

A Tabular Statement of the Federal Population of the several counties in the State, showing the reasons on which the accompanying apportionment bill is founded.

The entire Federal Population of the State, is 754,285 :—the 120th part of this number is 6,285.

The following counties contain less than this ratio, but are entitled to one member :

Alexander	5,002
Brunswick	5,950
Caldwell	6,004
Camden	5,174
Carteret	6,209
Chowan	5,252
Columbus	5,308
Currituck	6,257
Greene	5,290
Jones	3,935
Lenoir	6,182
McDowell	5,741
Montgomery	6,163
Perquimons	6,023
Tyrrell	4,447
Washington	4,778
Watauga	3,348
Haywood, }	4,109
Macon, }	4,109
Jackson, }	4,109

Making 20, whose aggregate population is 104,307

* The counties of Haywood and Macon, out of which Jackson was formed have a federal population in the aggregate of 13,244. Each of these three, then, *must have less than the one hundred and twentieth part of the federal population of the State*, and it is, therefore, so stated in the table.

APPORTIONMENT CONTINUED.

The whole federal population, is	754,285
Deduct that comprehended in those counties, having less than the 120th part,	104,307
Leaves,	<u>649,978</u>
Divide this by one hundred, and the ratio of distribution is found to be	6,499
Twice this, or for two members, is	12,998
Thrice, or for three members, is	19,497

APPORTIONMENT CONTINUED.

The following counties (fifty in number) have the ratio, but not twice the amount, and are entitled to one member :

COUNTIES.	Ratio.	Excess
Buncombe †	6935	436
Madison †	6935	436
Yancey †	6935	436
Surry	8146	1647
Yadkin	9500	3001
Alamance	10162	3663
Anson	10758	4259
Ashe	8539	2030
Beaufort	11715	5216
Bertie	10021	3522
Bladen	8024	1525
Burke	6919	420
Cabarrus	8669	2160
Caswell	12161	5662
Catawba	8234	1735
Cherokee	6665	166
Cleaveland	9684	3185
Craven	12303	5804
Davie	6998	499
Duplin	11108	4609
Franklin	9510	3011
Forsythe	10628	4129
Gaston	7229	720
Gates	6878	379
Henderson	6990	491
Hertford	6646	147
Hyde	6598	99
Johnston	11884	5385
Lincoln	6924	425
Martin	6876	377
Mecklenburg	11723	5224
Moore	8551	2052

† The population of each of the counties of Buncombe, Madison and Yancey, is not known. The aggregate population, however, is 20,805. This is more than three times the ratio, and hence, each is assumed to have the requisite number in the table.

APPORTIONMENT CONTINUED.

COUNTIES.	Ratio.	Excess
Nash	9033	2534
Northampton	10731	4232
Onslow	7040	541
Pasquotank	7708	1209
Person	8820	2321
Pitt	10744	4245
Richmond	7936	1437
Robeson	11079	4580
Rockingham	12363	5864
Rowan	12317	5818
Rutherford	12388	5889
Sampson	12311	5812
Stanly	6348	
Stokes	8488	2089
Union	9259	2760
Warren	10367	3868
Wayne	11479	4980
Wilkes	11642	5143

The following eleven counties have twice the ratio, and are entitled to two members.:

	Ratio.	Exc ess
Cumberland	17727	4729
Granville	17400	4402
Guilford	18466	5468
Edgecomb	13783	785
Halifax	13008	10
Chatham	16016	3018
Davidson	14124	1126
Iredell	13064	66
New Hanover	14236	1238
Orange	14955	1957
Randolph	15172	2174

The county of Wake has three times the ratio, and is entitled to three members.

The following four counties, having twice the ratio, and an excess, are entitled to an additional member, on account of said excess.

Cumberland	4729
Granville	4402
Guilford	5468
Chatham	3018

The following twenty one counties having the ratio, and the largest excesses, are entitled to an additional member, on said amount :

EXCESS.

Alamance	3663
Anson	4259
Beaufort	5216
Bertie	3522
Caswall	5662
Cleaveland	3185
Craven	5804
Duplin	4609
Forsythe	4129
Johnston	5385
Mecklenburg	5224
Northampton	4232
Pitt	4245
Robeson	4580
Rockingham	5864
Rowan	5818
Rutherford	5889
Sampson	5812
Warren	3868
Wayne	4980
Wilkes	5143

RECAPITULATION.

20	Counties having less than the 120th part,	20
50	counties having the ratio, but not twice that amount,	50
11	counties having twice the ratio,	22
1	county having three times the ratio,	3
4	counties having twice the ratio, and largest fractions, getting thereby an additional member	4
21	counties having the ratio, and largest fractions getting thereby an additional member,	21
		<hr/>
		120

[SENATE DOCUMENT, No. 28.]

Presented by Mr. BOYD.—Passed first reading ; referred to committee on Internal Improvement, and ordered to be printed.

RESOLUTION.

WHEREAS, At a session of the General Assembly, held in
2 the year 1816, an act was passed, declaring valid the
3 proceedings of the subscribers for improving the navi-
4 gation of the River Roanoke and its tributaries, &c. :
AND WHEREAS, in the third section of the before recited
2 act, it is further enacted, " That the articles following,
3 shall be, and make part of the charter of the aforesaid
4 company : " That if the said company shall not open
5 and complete the navigation of the said river and the
6 tributary streams thereof, for the safe passage of boats
7 within twenty years from and after the first day of Ja-
8 nuary, one thousand eight hundred and eighteen, then
9 all preference in favor of the said company, in the navi-
10 gation of said river and streams respectively, so not im-
11 proved, shall cease and be forfeited :

I. *Be it therefore Resolved*, That the Committee on Internal Improvement be instructed to inquire whether the Roanoke Navigation Company, in failing to improve that portion of Dan River, running through the county of Rockingham, as set forth in the above recited act, or from any other cause, have not forfeited their right and control over the same.

[Report laid on the table and ordered to be printed.]

R E P O R T .

The committee on Internal Improvement have had referred to them, a resolution, instructing them to enquire “whether the Roanoke Navigation company, in failing to improve that portion of Dan river, running through the county of Rockingham, as set forth” in their charter, or from any other cause, have not forfeited their right and control over the same.

The committee, upon investigation, have ascertained, that, by the charter of said company, granted in the year eighteen hundred and sixteen, they had full power and authority to improve for the purpose of navigation, the Roanoke, Dan and Staunton rivers, and the tributary streams thereof; and to enjoy the sole and exclusive right so to improve the said rivers for the period of twenty years from the date of the charter: that in pursuance of the power and authority vested in the said company, they did within the prescribed time open and improve the navigation of Dan river, from its junction with Staunton river to some point in Rockingham county, not precisely known to the committee, but believed to have been at or near Hairston ferry, in said county; and that the said company for more than twenty years, have been in the constant receipt of tolls on the said river, so improved: that the said Roanoke Navigation company, either for the want of adequate

means, or for the reason that the river above the said point was not considered susceptible of improvement, at a cost to justify the undertaking, have failed to extend their improvements beyond the place designated, and as the time within which the said company were authorized to extend the navigation above, has long since elapsed, the committee is of opinion that the said Roanoke Navigation company have forfeited their rights in this particular regard, and that the right to improve said river above the point before mentioned has reverted to the State.

The committee is not informed, nor do they suppose that the said company sets up any claim adverse to the views presented in this report.

A. JOYNER,
In behalf of the committee.

A BILL

TO DIVIDE THE STATE

INTO

DISTRICTS FOR CHOOSING

REPRESENTATIVES IN CONGRESS:

RALEIGH:

SEATON GALES, PRINTER TO THE LEGISLATURE

1852.

SENATE, Dec. 16, 1852.

[Introduced by Mr. THOMPSON, and ordered to be printed.]

A BILL

To divide the State into Districts for choosing Representatives in Congress.

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by the autho-*
3 *rity of the same, That for the purpose of electing Re-*
4 *presentatives to the Congress of the United States, this*
5 *State shall be divided into Eight Districts, as follows,*
6 *viz: The first district shall be composed of the counties*
7 *of Currituck, Camden, Pasquotank, Perquimons, Chow-*
9 *an, Gates, Hertford, Northampton, Halifax, Bertie, Mar-*
10 *tin, Washington and Tyrrell; the second district shall*
11 *be composed of the counties of Hyde, Beaufort, Pitt,*
12 *Edgecombe, Wayne, Greene, Lenoir, Craven, Carteret,*
13 *Jones and Onslow; the third district shall be composed*
14 *of the counties of Granville, Wake, Johnston, Nash,*
15 *Franklin, Warren and Chatham; the fourth district*
16 *shall be composed of the counties of New Hanover,*
17 *Duplin, Sampson, Bladen, Brunswick, Columbus, Rob-*
18 *eson, Cumberland and Moore; the fifth district shall be*
19 *composed of the counties of Stokes, Forsythe, Rocking-*
20 *ham, Guilford, Alamance, Caswell, Person and Orange;*
21 *the sixth district shall be composed of the counties of*
22 *Richmond, Montgomery, Anson, Stanly, Randolph, Da-*
23 *vidson, Cabarrus, Mecklenburg, Union and Gaston; the*
24 *seventh district shall be composed of the counties of*
25 *Rowan, Davie, Iredell, Catawba, Lincoln, Alexander,*
26 *Yadkin, Surry, Wilkes and Ashe; and the eighth dis-*
27 *trict shall be composed of the counties of Cherokee,*
28 *Macon, Jackson, Haywood, Henderson, Buncombe,*
29 *Madison, Yancy, McDowell, Rutherford, Cleaveland,*
30 *Burke, Caldwell and Watauga.*

II. *Be it further enacted*, That the eighth section of chapter seventy-two of the Revised Statutes, shall be, and the same is hereby amended, so as to make it the duty of the Sheriff or returning officer of the counties of each of the said districts, to meet together on the Thursday next after the election, to compare the polls at the places hereinafter named, but in other respects, under the same rules and regulations as are required by said act; that is to say, in the first district, at the court house in Edenton in the county of Chowan; in the second district, at the court house in Newbern in the county of Craven; in the third district, at the court house in Raleigh in the county of Wake; in the fourth district, in the court house in Elizabethtown in the county of Bladen; in the fifth district, at the court house in Greensboro', in the county of Guilford; in the sixth district, at the court house in Albemarle, in the county of Stanly; in the seventh district, at the court house in Statesville, in the county of Iredell; in the eighth district, at the court house in Ashville, in county of Buncombe.

III. *Be it further enacted*, That all laws and clauses of laws coming in conflict with this act, be, and the same are, hereby repealed.

CONGRESSIONAL DISTRICTS.

FIRST DISTRICT.	Population.
Currituck	6257
Camden	5174
Pasquotank	7708
Perquimons	6023
Chowan	5252
Gates	6878
Hertford	6646
Bertie	10021
Northampton	10731
Halifax	13008
Martin	6876
Washington	4778
Tyrrell	4447
	9 3,799 Total Population.

SECOND DISTRICT.	
Hyde	6598
Beaufort	11715
Pitt	10744
Edgcombe	13783
Wayne	11479
Green	5290
Lenoir	6182
Craven	12303
Carteret	6209
Jones	3935
Onslow	7040
	95,278 Total population.

DIVISION CONTINUED.

THIRD DISTRICT.	Popu- lation.	
Granville	17400	
Wake	21126	
Johnson	11884	
Nash	9033	
Franklin	9510	
Warren	10367	
Chatham.	16016	
	95,336	Total Population.
FOURTH DISTRICT.		
New Hanover	14236	
Duplin	11108	
Sampson	12311	
Bladen	8024	
Brunswick	5950	
Columbus	5308	
Robeson	11079	
Cumberland	17727	
Moore	8551	
	94,294	Total Population.
FIFTH DISTRICT.		
Stokes	8488	
Forsythe	10628	
Rockingham	12363	
Guilford	18468	
Alamance	10162	
Caswell	12161	
Person	8820	
Orange	14955	
	96,045	Total Population.

DIVISION CONTINUED.

SIXTH DISTRICT.	Popu- lation.	
Richmond	7936	
Montgomery	6163	
Anson	10758	
Stanly	6348	
Randolph	15172	
Davidson	14124	
Cabarrus	8669	
Mecklenburg	11723	
Union	9259	
Gaston	7229	
	97,381	Total population.
SEVENTH DISTRICT.		
Rowan	12317	
Davie	6998	
Iredell	13064	
Catawba	8234	
Lincoln	6924	
Alexander	5002	
Yadkin	9500	
Surry	8146	
Wilkes	11642	
Ashe	8539	
	90,366	Total population.
*EIGHTH DISTRICT.		
Cherokee	6665	
Macon	6169	
Jackson		
Haywood	6365	
Henderson	6990	
Buncombe	12738	
Madison		
Yancey	8067	
McDowell	5741	
Rutherford	12388	
Cleaveland	9684	
Burke	6919	
Caldwell	6004	
Watauga	3348	
	91,078	Total population.

* In this computation, the Indians in Macon and Haywood are excluded.

POPULATION:

RECAPITULATION.

First District,	93,799
Second District,	95,279
Third District,	95,336
Fourth District,	94,294
Fifth District,	96,045
Sixth District,	97,381
Seventh District,	90,366
Eighth District,	91,078
	<hr/>
	753,578

(SENATE DOCUMENT, No. 30.)

(255)

A MEMORIAL
CONCERNING THE
“(MAINE LIQUOR LAW)”
IN NORTH CAROLINA.



RALEIGH:
SEATON GALES, PRINTER TO THE LEGISLATURE.

1852;

SENATE, Dec. 17th, 1852.

[Presented by Mr. JOYNER.—Read first time, and laid on the table, and ordered to be printed.]

A MEMORIAL

*To the Honorable the General Assembly
of the State of North Carolina:*

Whereas, it is laid down as a fundamental principle in the Constitution of our most enlightened and free government, that all citizens thereof have an unalienable right to "life, liberty and the pursuit of happiness," and consequently the right to think for themselves, individually and collectively as a people, in temperance, or in regard to eating and drinking, and all else involving individual rights legitimate to private judgment: And, *whereas*, lately has met our observation a certain petition to your honorable body, involving the principles of the northern fanatically despotic Maine liquor law, or a law of paternal origin, whence the abolition fanatical laws, to rob the South of one species of property, as the Maine law of another: Or *whereas*, both these fanatical law concerns "higher" than our Constitution and Heaven, in the arrogantly fanatical self-conceit of certain despotic characters, but really lower than common infidel-like wickedness and anti-republican despotism; and as such, involving worse principles than taxing without consent, that gave rise to the revolutionary struggle for republican liberty; or the despotic denial of self-thought or private judgment in religion, that gave rise to the reformation that wrought out freedom from ecclesiastical tyranny. And, *whereas*, that we believe that anything equivalent to the Maine liquor law passed, or such as petitioned for in said memorial, would not only subserve the insidious sinister-minded purposes of these attacking vital State rights of the South, by certain hireling exotic lecturers to get up the Maine law excitement, and to put down all defensive opposition, by

coarsely vulgar ridicule and insulting abuse of their betters, while shrinking from public free discussion under shameful jesuit pretences; but, even if such despotic sumptuary, fanatical laws, as the Maine one or that petitioned for, passed by any means to virtually deprive the poorer classes of the people from their constitutional right, to enjoy certain blessings of Heaven, (and that these blessings are curses, and no property for, certain infidel and abusive hireling lecturer to recklessly assert,) and tempting to hypocrisy to obtain them; yet virtually, the Maine liquor one is no better law in the name of temperance, than those fanatical laws in the name of religion, that destroyed temporally thousands, aye, millions of the best men and christians ever upon earth—and the fanatical law, by which were murdered innocent ladies called Salem Witches. *Therefore*, in view of the foregoing and vital republican principles, and their antagonistic liberty-destroying despotic laws, we the undersigned, humbly petition you, (not arrogantly instruct you) to let good enough alone; as to our own well regulated license law to wholesomely restrain, if well administered, (and no law works well without,) and not wholly destroy the traffic in the property blessing of alcoholic liquor; and much more we beseech you not to change the present liberally framed license law according to Maine law feature, into an odious monopoly of liquor sales, by a fanatical aristocratic clique concern, to tempt hypocrisy through selling for a medicine only, and in such quantities and under such restrictions, as to deprive the poorer classes of citizens to think, judge, and act for themselves in temperance. And, we say fearless of successful contradiction, that a large majority of the citizens of this county, if time and opportunity given, would sign this petition against Maine liquor law violence and tyranny. But we hope a few names will suffice. And, we also venture to give our opinion that, if the people of our State could have the question fairly brought before them, an overwhelming majority would petition as we, and say, “let good enough alone.” And the more con-

firmed are we in the opinion, in view of the fact, that a large and the most candid and respectable number of the order of the Sons of Temperance greatly deprecate that any of their body should pursue measures calculated either to ruin liberty or their society, or both, and believe that persuasive measures only legitimate to the principles of the order; and believe that Maine law force just as injurious to temperance, as the like in religion by church and State union and consequent horrid persecutions. But, as part of the unprincipled cunning of abolitionists North, is to try to hold the balance of power in party conflicts, so, doubtless will their counterpart fanatics, the Maine law despots in the South. We, *therefore*, as a part of the sovereign people of the State, take the liberty to suggest to you not to be induced by any appliances, to stand in awe of would-be despots over your consciences, to induce you to turn cold shoulders to fearless defenders of primary liberty against Maine law tyranny. You are the guardians of the people, as their law-makers; and especially ought to be the magnanimous fearless guardians of the masses of the people, peaceably attending to their respective avocations, without the task or inclination of watching despotic clique fanatics trying to deprive the many of temperately enjoying certain blessings, because a comparative few abuse them. We entreat you, therefore, to set your countenances as brass, and your brows as flint against all corrupt Denmarks, that would, by varied pretences, induce you to trample upon the primary liberties of our State. A State hitherto in great repute for sober-minded (not theoretical or fanatical) judgment and policy. And, we especially petition you to beware of even-suspected fanaticisms, or principles leading thereto from the Northern States; States now the theatre of diversified humbuggery, and where most deadly hostility to the South, because of her unyielding front to the dictates of a malign reigning fanaticism, or not complying with its arrogant demands to destroy a southern domestic institution, Heaven and law sanctioned, and involving the best interests of all concerned.

To all arrogant Northern fanatical dictation, and insidious attacks upon our peculiar State institutions, we ought to say in this emphatic quotation, "we seek no change, and much less such change as you can give us." And one of the worst liberty-destroying fanatical changes is now sought to be inflicted upon us through virtual traitors in our midst to Southern best interests. And let us not suffer our liberties to be poisoned at the fountain head, by the Syren cry of "Let alone, or let alone" this absurdly infidel fanaticism of abstinence the only temperance, and advocacy of Maine law force and violence to back its humbuggery, or absurd position, that cannot bear the light of fair discussion, and it will soon die a natural death. So the cry as to abolitionism years since. But, if let alone, and no antidote to poisoning the public mind or masses of the people North, by the lecturers and pamphlets of abolitionism, and at length it had well nigh ruined our country, and now hangs as a dark threatening incubus over our land. Well, if fanatics had let alone their despotic intermeddling attacks. And we venture to say to you, that apart from this abolition let-alone affair, and we would not now be threatened with liberty-destroying Maine law despotism. And, that it is indeed a despotism, clearly evinced from the fact of most eminent jurists of our land, declaring it unconstitutional. Supreme judges have pronounced "Tekel," upon the Maine law, and therefore it is, in deed and in truth, a most rotten Denmark, or most pernicious liberty-destroying fanaticism, except in the deranged eye of the fanatics themselves. And that both fanaticisms of abolitionism, and ultra-teetotalism: with its Maine law despotism, are indeed, infidel or in direct hostility to the Bible, most eminent christians have decided. So both are against equitable and sound laws of earth and Heaven. And in the North, Maine law violence and all its incipient steps so far as tried proved bad; and, especially pernicious to true temperance. All sorts of hypocrisies are resorted to in Maine to obtain liquor, the most striking effect of said law there. New York State tried to her repentance.

abrogating her license law, such as ours, one year only. And counter-petitioning saved her from Maine law despotism. And, in New Jersey, opinions entitled to the highest regard pronounced the Maine law to be "anti republican, tyrannical, and abrogating the trial by jury; introducing violations of private property, &c." But three States only have adopted it, and those among the most noted for abolitionism. Virginia rejected it, and no southern State is yet disgraced by its adoption, and we devoutly hope never will be. And we respectfully suggest that some, at least of the northern legislators, helping to pass the Maine law, were utterly destitute of the patriotic magnanimity of a good and great politician, declaring in a crisis involving the primary rights of the South: "Rather let me perish than my country." Or that such legislators were thus destitute, who knew the better, but pursued the worse as to the Maine law despotism, as well as abolitionism, for fear of fanatical obloquy, and political snuffing out thereby.

And we fearlessly predict, that the probable consequence, in Providence, of such political cowardice, will be, that, after the ultra teetotal and despotic Maine Law clouds blow over, the very political death, so dreaded by the aforesaid, as to drive them into crying tyrannical wrong against the primary rights of the sovereign people, (and especially of the lowliest, most needing law protection,) will be inflicted on such politicians. And if no earthly retribution overtake those who, lent themselves, as instruments of fanatical law tyranny awful, we believe, will be their reckoning in eternity for this sin, against right, knowledge and the people. But we trust, such reckoning, and all corruptions of primary liberty principles leading thereto, will not attach to any Southern State; and especially to the good "Old North." Or that our Legislature is sound in republicanism; though needing, perhaps, some of "that eternal vigilance, that is the price of liberty" to keep so, in time of temperance to swerve therefrom, by fanatical memorials and the like.

In fine, we entreat you to turn "cold shoulders" to all fanatical appliances, as to Maine law force, and to legislate only on things, legitimate to the object of your mission to Raleigh.

Apart from such appliances, and their malign influence, doubtless a primary liberty fact, that the people, and all the sovereign people, poor and rich, have just as good a right, to use as they please, all blessings of drink and diet, as others so choosing, to be abstinent as to any of them. License such as ours to restrain; but no abolition like laws to force; and likewise to impede or destroy temperance movements by societies or otherwise, is our motto. And we trust it will prove to be yours. We humbly pray, &c.

Halifax County, N. C. Nov. 15th 1852.

Benj. Johnson,
William Hawkins,
John Spears,
James S. Smith,
James O. Smith,
T. M. Carligh,
Hilliard Platt,
Hiram Dickens,
F. H. Jones,
John H. Bradley,
David Lewis,
Eli Butts,
J. H. Faucett,
J. H. Burton,
L. T. Allen,
Wm. W. Daniel, Sen.
W. Cole,
Thomas Minga,
W. D. Faucett,
John Pully,
O. P. Shell,
D. J. Millikin,
Sidney Weller,
Henry Atkinson,
Norflet Lewis,

David Cullurn,
James W. Branch,
Thomas Ryan,
M. Draper,
William Draper,
Peter Pritchett,
V. Baily,
Jeremiah O. Pritchett,
John H. Weller,
Robt. J. Vinson,
W. D. Crawley,
W. M. Perkins,
Benj. C. Edmunds,
Samuel Jordan,
John Crawley,
Joseph Hardy,
James Harper,
Richard Moore,
Richard H. Moore,
William H. Moore,
Thomas T. Jordan,
Robt. H. Southall,
Stephen R. Lewis,
Joe. Beesly.

SENATE, Dec. 18th, 1852.

[Presented by Mr. WASHINGTON.—Read first time and passed. Ordered to be printed.]

REPORT

AND

RESOLUTION IN RELATION

TO

WHEELER'S HISTORY OF NORTH CAROLINA.

The Joint Select Committee on the Library, at the last session of the General Assembly, reported to that body that they had examined, in manuscript, a work proposed to be published by Colonel John H. Wheeler, entitled "Historical Sketches of North Carolina, from 1584 to 1851, complete, from original records, official documents and traditional statements, with biographical sketches of her distinguished statesmen, jurists, lawyers, soldiers, divines," &c.: that they regarded the said work "as a praiseworthy and patriotic effort to rescue from oblivion important facts of our early history of our State," and "recommended the purchase of a number" of copies of the same for the use of the State. Under the report of the committee on the Library, of the last session, which was unanimously adopted, your present committee have had before them the said work, as recent-

ly published ; and while your committee do not pretend to recommend the same as entirely faultless or complete, yet they are happy to state that its appearance has produced on the minds of others, fully competent to form an opinion on the subject, impressions quite as favorable as the anticipations of the committee on the Library of the last session. From among the large number of evidences of popular favor of said work, which have been laid before them, your committee have noticed and selected the following, namely:

“ This work (says the *Pennsylvanian*) opens to our view a *terra incognita*—a land hitherto unknown. Modest and unobtrusive as the State of North Carolina has been, we are surprised and delighted at the richness of the jewels which her history presents. This work places North Carolina upon high grounds.”

The President of the Historical Society of Pennsylvania says :

“ This work is full of curious and interesting matter, and is a valuable addition to our literature.”

The honorable George Bancroft, the author of a history of the United States, says :

“ That he has received both pleasure and instruction from the work. There are many separate pieces of information and documents, which of themselves are worth more than the price of the work. It is full of interesting narration, important document, varied information, and true North Carolina feeling.”

“ The author of this work (says the *National Intelligencer*) appears to have examined, with much care, zeal and industry, every author and authority of her history from 1584 to 1851. The materials have been ample, and he has made good use of them.

The Standard, in speaking of this work, says :

"It contains a mass of facts which ought to be known by every son of the State. Every reading man will possess a copy and study it, and imbue the minds of his children with the knowledge it contains, and the patriotic spirit which pervades it.

The Spirit of the Age says :

"We have learned more of our native State, by reading this book, than we ever knew before, and we are prouder than ever of our beloved old mother."

"When we saw the plan of this work, (says the Salisbury Watchman,) we said it would prove one of the most valuable works, to the State, ever published ; and the work itself verifies this pledge. The chapter on our own county (Rowan) is alone worth the price of the book.

The Rev. H. Onderdonk, jr., author of the history of Long Island, says :

"All lovers of history must feel grateful that the author of this work has lived to collate and arrange so vast a mass of material, and presented them to the world in so acceptable and finished a style. These sketches combine the charms of romance with the value of history ; and in future, Roanoke, Alamance and Mecklenburg, will be as familiar as household words in our mouths, and be associated in the mind of every patriot with Plymouth, Bunker Hill and Saratoga."

Mr. Putnam, of Tennessee, author of the life of Sevier, says :

"This work removes doubts, settles interesting questions and places, as fixed facts, many important points, and nobly justifies the claim of North Carolina to the first honor in many respects."

Your Committee might present many others from the mass of testimonials from every section of the country, as to the character and value of this work; but they deem those already offered as amply sufficient to secure the kind attention of the General Assembly to the very laudable undertaking of Colonel Wheeler, to rescue from oblivion some of the most brilliant points in the history of North Carolina, and to elevate the character of his native State abroad. And, in accordance with the recommendation of the Joint Select Committee on the Library, of the last session, which was unanimously adopted by the Legislature, your present committee would most respectfully recommend the adoption of the following resolution, namely :

RESOLUTION.

Resolved, That his Excellency the Governor, be, and he is hereby, authorised and empowered, to purchase, from the Rev. Samuel Pearce, agent for the sale of "Wheeler's History of North Carolina," one hundred and fifty copies of said work, at the subscription price of the same, one copy of which shall be deposited in each of the executive offices at Raleigh; one copy sent with the acts of Assembly, to be deposited in the office of the Clerks of the Court of Pleas and Quarter Sessions for the several counties in this State, and the remaining copies to be deposited in the State Library, and that he be allowed to draw on the treasurer of the State for such sum or sums of money as may be necessary for the purchase and transmission of the same.

All of which is respectfully submitted.

WM. H. WASHINGTON,

Chairman of the Committee.

REPORT

OF THE

JOINT SELECT COMMITTEE

ON THE CONDITION

OF THE

INSTITUTION FOR THE DEAF, DUMB AND BLIND.



RALEIGH:

SEATON GALES, PRINTER TO THE LEGISLATURE

1852.

[Reported by Mr. WASHINGTON.—Read first time and ordered to be printed.]

REPORT.

The Joint Select Committee, to whom was referred to investigate the condition of the Institution for the Deaf Dumb and Blind, report,

That they have visited the Institution, and examined its present condition. As the result of this examination, they have to state, that it continues to flourish in as great a degree as at any period in its history, under the general administration of the present Board of Directors, and the immediate superintendence of the Principal, who has presided over it from its foundation. The internal management of the establishment is conducted with neatness, order and regularity, and with evident regard to the health, comfort and improvement of the pupils. The Committee have seen nothing that they cannot cheerfully commend in its domestic arrangements, and are pleased to bear witness to the aspect of cheerfulness and happiness exhibited by both classes of those now enjoying the benefits of instruction within its walls.

The department for the Deaf and Dumb, with two deaf-mute and one speaking teachers, continues to prosper, and by its increasing usefulness acquires every day new claims upon the fostering favor of the State.

The department for the Blind, which has been introduced since the last meeting of the Legislature, is yet in its infancy, but has already succeeded beyond the most sanguine expectations, so as fully to prove the wisdom with which it was instituted. This school, like that for the Deaf and Dumb, is under the immediate superintendence and control of the Principal, and enjoys the constant instruction of one teacher in the intellectual department, and two in that of music. The number of pupils is small as yet, but their progress in the acquisition of useful information and accomplishments, has been eminently gratifying to every friend of the Institution who has witnessed their exercises.

The Committee also examined with some degree of minuteness into the organization and management of the mechanical department. In this department, instruction is given to the male deaf and dumb pupils in printing, shoe-making, carpenter's work, and broom-making; the blind are also taught the last mentioned trade, as one of those best adapted to their capabilities. The art of printing is regarded by the Principal as best suited of all to the peculiar wants and powers of the deaf-mutes; and he has accordingly, with the sanction of the Board, provided the most ample means for its acquisition by them. The reasons assigned for this choice, appear to the Committee to be conclusive in its favor. It is suited to the tastes of this class of pupils in southern institutions much better than any other species of handicraft. It provides them with a certain resource for future support, and it furnishes them with constant practical illustrations of those nice distinctions of language, which are theoretically taught in the school room. The great object in the instruction of deaf mutes, is to render the language of their country intelligible to them, and it would be difficult to find a better place for this purpose than a good printing office. There is no other branch of industry accessible to them, which to such an extent could stimulate, enlighten, and refine the mind of the learner.

When the mechanical department was organized, it became a serious question with the Board how to carry it on successfully, and yet avoid those expenses to which this department subjects all similar institutions. Instead of being peculiarly profitable it has always proved the reverse, and the Board were unwilling, with their limited means, to incur an additional expense of an uncertain amount. The Principal was willing to undertake the new department, either at the cost of the institution, or at his own, with the privilege of so conducting it as to avoid all danger of detriment to his own interests; and the Board, we think, wisely adopted the latter alternative, with the understand-

ing that the Principal was to be furnished with the necessary apparatus. It was also understood, that he might employ as many regular journeymen as might be needed. In no other way could pecuniary loss be avoided, since pupils learning the art are so many raw hands, who contribute nothing but the inconvenience of their presence to the office in which they labor. The shops have now been in operation some time, although the Principal has not availed himself of all its advantages. He has on the contrary, expended not less than two thousand dollars of his own funds in machinery and other necessary instruments for this department, for the use of which he has made no charge upon the Institution.

In view of these facts, and in consideration of the admirable style of work executed in the printing office especially, the committee are satisfied that the present arrangement is an economical, just and beneficial one for all parties concerned.

While on this subject, the committee would add that the female pupils of both classes are carefully instructed in various branches of industry suited to their sex, and that some of the work executed by the blind, would be creditable to any institution. There is also reason to believe that the effect of manual employment upon the moral and social condition of the institution is most beneficial. We are assured that almost constant harmony and good feeling prevails among the pupils, and that so numerous a school, constituted of such discordant elements, could hardly enjoy so much repose, under any other system.

An inspection of the buildings has satisfied us that they do not afford sufficient room for the increasing numbers that require accommodation. They are already so full, that proper regard for the health and comfort of the inmates imperiously demands that considerable additions should be made for anticipated accessions.

It is proposed for this purpose, and also with a view to a better administration of the domestic affairs of the institution, to erect, near the main building, a suitable dwelling

house for the family of the Principal, and to extend the wings of the main building in such a manner as to afford ample accommodations for the future. The two classes of deaf, dumb and blind obviously require distinct and separate dormitories; and the peculiar manner in which the blind are instructed renders it necessary that recitation and music rooms should be amply provided.

The committee, therefore, recommend that these additions be made without delay, and a special appropriation of seven thousand five hundred dollars be made for that purpose.

Owing to the introduction of a department for the blind, and the expenses incident thereto, as well as to the increase of pupils in the institution, it is necessary that the annual appropriations should be enlarged. No application has been made since the foundation of the institution, for an increase of the annual appropriation, and unless this be done at the present session, it is evident, that the interests of the institution must seriously suffer, and its progress in usefulness be arrested. The committee therefore recommend that the annual appropriation be increased to eight thousand dollars.

At the session of the Legislature of '48-'9, an act was passed, requiring every county in the State to pay the sum of seventy-five dollars annually, for the term of four years, for each deaf mute, sent from said county. Four years having elapsed since the passage of this act, it is necessary that this act be so amended as to include the whole term of instruction, (seven years;) also to include the blind in the same provision.

A department for the blind having been established, it is proper that the corporate title of the institution be changed accordingly.

For the accomplishment of the above object, the committee respectfully submit the accompanying bill.

WM. H. WASHINGTON,

Chairman of the Committee.

A BILL

To amend several acts of the General Assembly, in relation to the Deaf, and Dumb, and the Blind.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the act passed at the session of the General Assembly, for 1848-'9, entitled "An act to provide more effectually for the education of the deaf mutes in this State," be so amended as to include the blind, in all the provisions of said act, and also to extend the term for which the tax of seventy-five dollars is to be levied, to seven years instead of four.

II. *Be it further enacted,* That the sixth section of the act passed at the session of the General Assembly, for 1848-'9, entitled, "An act to establish a Board of Directors for the Deaf and Dumb Institution of this State," be so amended as to make the corporate title of the Institution as follows, to wit: "The North Carolina Institution for the education of the Deaf, and Dumb, and of the Blind."

III. *Be it further enacted,* That the first section of the act of the General Assembly, passed at the session for 1844-'5, entitled "an act to provide for the education

4 and maintenance of the poor and destitute deaf mutes,
 5 and blind persons, in this State," be so amended as to
 6 make the annual appropriation to the institution, eight
 7 thousand dollars.

IV. *Be it further enacted,* That the President and Di-
 2 rectors of the Institution, be, and they hereby are au-
 3 thorised, empowered, and directed, to cause a suitable
 4 building to be erected on the grounds of the institution,
 5 for the accommodation of the family of the Principal,
 6 &c.; and also to cause such additions to the main build-
 7 ings to be made as they may deem necessary and pro-
 8 per, for the accommodation of the pupils in both de-
 9 partments.

V. *Be it further enacted,* That the President and Direc-
 2 tors of the institution, be, and they hereby are autho-
 3 rised, empowered and directed to apply, for the purpose
 4 of carrying out the provisions of the sixth section of this
 5 act, the sum of seven thousand five hundred dollars
 6 from the Literary Fund.

VI. *Be it further enacted,* That this act shall take ef-
 2 fect, and be in force, from and after its ratification.

REPORT

FROM THE

SELECT COMMITTEE

ON

CONGRESSIONAL DISTRICTS.

RALEIGH:

SEATON GALE, PRINTER TO THE LEGISLATURE

1852. 1

[Presented by Mr. GILMER.—Passed first reading and
ordered to be printed.]

REPORT.

The Committee, to whom was referred the several bills on the Congressional districts, have had the same under consideration, and recommend the following amendment to the bill offered by the Senator from Bertie, [Mr. Thompson,] on the 16th of December, to wit :

Strike out all of the first sections except the enacting clause, and insert the accompanying amendment, marked A. Should this amendment be adopted, the other section to be amended as to the places of comparing the polls.

Respectfully submitted,

JOHN A. GILMER, Ch'n.

A BILL

(A.)

That for the purpose of electing Representatives to the Congress of the United States, this State shall be divided into Eight Districts, as follows, viz : The first district shall be composed of the counties of Currituck, Camden, Pasquotank, Perquimons, Chowan, Gates, Hertford, Bertie, Martin, Beaufort, Washington, Tyrrell and Hyde ; the second district shall be composed of the counties of Edgecombe, Pitt, Greene, Wayne, Lenoir, Craven, Jones, Carteret, Duplin, and Johnson ; the third district shall be composed of New Hanover, Brunswick, Columbus, Bladen, Sampson, Robeson, Cumberland, Moore, Richmond and Onslow ; the fourth district shall be composed of the counties of Wake, Granville, Warren, Franklin, Nash, Halifax, and Northampton ; the fifth district shall be composed of the counties of Orange, Alamance, Person, Caswell, Rockingham, Chatham, Stokes and Forsythe ; the sixth district shall be composed of the counties of Guilford, Randolph, Montgomery, Anson, Stanly, Union, Rowan, Davie and Davidson ; the seventh district shall be composed of the counties of Mecklenburg, Gaston, Lincoln, Catawba, Alexander, Iredell, Yadkin, Surry, Wilkes, Ashe and Cabarrus ; and the eighth district shall be composed of the counties of Cherokee, Macon, Haywood, Jackson, Burke, Henderson, Rutherford, McDowell, Buncombe, Caldwell, Yancy, Watauga, Cleveland and Madison.

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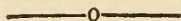
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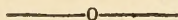
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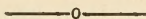
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HOUSE OF COMMONS, Oct. 7, 1852.

[Read first time and passed, and, on motion of Mr. Dobbin, ordered to be printed.]

A BILL

To provide for the election of Electors of President and Vice President of the United States, in this State, on the Tuesday next after the first Monday in November next, and to amend "An Act providing for the appointment of Electors to vote for President and Vice President of the United States," Revised Statutes, Chapter 41, and the Acts concerning Electors of President and Vice President, passed at the Sessions of the General Assembly of 1840-'1, Chapter 26, and 1842-'3, Chapter 26.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That so much of the said Acts as provides for the laying off and division of the State "into Eleven Districts for the purpose of choosing Electors for a President and Vice President of the United States," be and the same is hereby repealed; and that the persons qualified to vote for Members of the House of Commons of the General Assembly of this State, shall meet on the Tuesday next after the *first* Monday of November next, at the place or places by law established in their several Counties for the election of Members of the

13 General Assembly, and then and there give their votes,
 14 by ballot for ten discreet persons, one of whom shall be
 15 chosen from the State at large, and nine others so chosen,
 16 that one shall actually reside within each of the Districts
 17 established in this State, "for the purpose of electing
 18 Representatives to the Congress of the United States,"
 19 by an Act of the General Assembly concerning "the
 20 division of the State into Congressional Districts," pass-
 21 ed at the Session of 1846-'7, Chapter 21: And the ten
 22 persons for whom the greatest number of votes through-
 23 out the State shall appear to have been given as afore-
 24 said, shall be, and they are hereby declared to be, Elect-
 25 ors for and on behalf of the State, to vote for President
 26 and Vice President of the United States at the ensuing
 27 election.

II. *Be it further enacted*, That the election of Electors,
 2 as herein provided for, shall be conducted, in all respects,
 3 under the rules, regulations and restrictions now in force
 4 by the existing law of the State; and the returns and
 5 certificates of election, held as aforesaid, shall be made
 6 in the same manner, and under the same penalties, as is
 7 now provided by law: And the several Acts concern-
 8 ing the election of Electors for President and Vice Pre-
 9 sident of the United States, for this State, shall be and
 10 remain in full force, except as hereinbefore provided.

III. *Be it further enacted*, That this Act shall take effect,
 2 and be in force, from and after its ratification.

[HOUSE DOCUMENT, No. 2.]

RESOLUTION

ON THE

PUBLIC LANDS.

[Read first time, laid on the table, and ordered to be printed.]

1. WHEREAS, the Public Domain of the United States is
2 the common property of all the States, purchased and
3 procured by the common efforts and common treasure
4 of those States, and in which each and all are fairly en-
5 titled to participate ; and any appropriation of the pub-
6 lic lands to particular States, for special and particular
7 purposes in those States, is creative of unequal, unjust
8 and improper discrimination in the use of a common
9 fund ; and, whereas, the precedent has been set, and the
10 practice attained in the Congress of the United States,
11 of granting immense donations of the public lands, to
12 particular States, for the purposes of internal improve-
13 ment and education, etc. : and whereas, the State of
14 North Carolina, in a spirit of generous patriotism and
15 fraternal feeling, ceded to the General Government, a
16 large and valuable portion of the public territory, and
17 is, therefore, upon every principle of justice, equality
18 and sound policy, fairly and legitimately entitled to her
19 share of the public lands : Therefore,

11. *Resolved*, That our Senators and Representatives in
 2 Congress be requested to make application, by bill, or
 3 otherwise, to that body, for an appropriation to the
 4 State of North Carolina, of a fair and equitable portion
 5 of the public lands, which, when so appropriated, shall
 6 be applied to purposes of internal improvement, public
 7 education, and in relief of the Treasury and public
 8 burdens of the State.

[HOUSE DOCUMENT, No. 3.]

[Read the first time, passed and ordered to be printed.]

A BILL

To provide for the Distribution of the Common School Fund, according to the White Population of the State.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the first section of the act of 1844-'5, chap. 36, be amended so as to read, that the nett income of the Literary Fund, (exclusive of moneys received from the sale of swamp lands,) shall annually be distributed among the several counties of this State, in the ratio of their white population, to be ascertained by the census next preceding such distribution.

II. *Be it further enacted,* That all laws and clauses of laws, coming within the meaning and purview of the provisions of this act, are hereby repealed; and this act shall be in force from and after its ratification.

[HOUSE DOCUMENT, No. 4.]

A BILL

TO AMEND AN ACT INCORPORATING

THE

RALEIGH AND GASTON RAIL ROAD

COMPANY.

RALEIGH:

SEATON GALES, PRINTER TO THE LEGISLATURE.

1852

[Read the first time, and, on motion of Mr. R. M. Saunders, referred to the Committee on Internal Improvements, and ordered to be printed.]

A BILL

To amend an Act entitled "An Act to incorporate the Raleigh and Gaston Railroad Company."

WHEREAS, by an Act passed at the session of the General Assembly for the year 1850-'51, entitled "An Act to incorporate the Raleigh and Gaston Railroad Company," certain Commissioners were appointed to receive subscriptions of stock to the said Raleigh and Gaston Railroad Company, to the amount of five hundred thousand dollars, in shares of one hundred dollars each: AND WHEREAS, the said Commissioners received such subscriptions and duly returned the same; whereupon such proceedings were had, pursuant to the provisions of said Act, as to form the said subscribers into a body politic and corporate, under the name and style of the Raleigh and Gaston Railroad Company: AND WHEREAS, there are in the said Act sundry omissions and imperfections:—For remedy thereof

I. Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the original subscribers to the stock of the Corporation created by the said Act, their executors, administrators and assigns, are hereby declared to be a body politic and corporate, under the name and style of the Raleigh and Gaston Railroad Com-

pany, separate and distinct from, and wholly unconnected with, the Company formerly existing by the same name, and shall have, and are hereby declared to have, all the rights, privileges and authorities of a body politic, and corporate; and, by that name, shall be capable in law of purchasing, holding, selling and conveying estates, real, personal and mixed, so far as shall be necessary for the purposes hereinafter mentioned, and no further; and shall have perpetual succession, and, by said corporate name, may sue and be sued, may have and use a common seal, and may, from time to time, make all such bye-laws, rules and regulations as may be necessary for the well ordering and conducting of the affairs of the said Corporation, not inconsistent with the constitution and laws of this State, nor with the following fundamental terms and conditions, namely:

II. The capital stock of said Company shall consist of eight hundred thousand dollars, (except as hereinafter provided,) to be held as follows, viz: one-half thereof, or four hundred thousand dollars, by the State of North Carolina, in consideration of the transfer and assignment, by the said State, as hereinafter provided, to the said Corporation, of that Railroad heretofore known as the Raleigh and Gaston Railroad, and now the property of said State, together with all its machine shops, implements, warehouses, depots, water stations, engines and cars, and every other description of property, real, personal or mixed, appertaining to the same; and the other half of the said capital shall be held and owned in shares of one hundred dollars each, by those individuals who subscribed for the same, according to the returns of the said original Commissioners, their executors, administrators or assigns. And, whenever it shall appear, by the certificate of the President and Treasurer of the said corporation, that the said sum of four hundred thousand dollars hath been actually paid in by said subscri-

21 bers, and expended by the said company in rebuilding
 22 the Raleigh and Gaston Railroad with an iron rail
 23 weighing not less than fifty pounds to the lineal yard,
 24 and in the purchase of the necessary cars, engines and
 25 other suitable materials for properly stocking and equip-
 26 ping the said road, so as to do the transportation there-
 27 on, then it shall be the duty of the Governor of the State
 28 for the time being, and he is hereby authorised and re-
 29 quired, under the Great Seal of the State, to transfer
 30 and convey to the said corporation the said Raleigh and
 31 Gaston Railroad, with all its fixtures and equipments
 32 hereinbefore mentioned.

III. *Be it enacted*, That the State of North Caro-
 2 lina shall be entitled to three Directors in the said Com-
 3 pany, to be annually appointed by the Board of Inter-
 4 nal Improvement; and, at the annual meetings of said
 5 Company, the said individual stockholders shall have
 6 power and authority to elect four Directors, who, with
 7 the Directors on the part of the State, shall have power
 8 to elect a President out of their own body, to manage
 9 all the affairs of the said Company; and said Directors
 10 shall continue in office until their successors shall have
 11 been elected. The President, with any three or more
 12 of the Directors, or, in the absence of the President, any
 13 four of the Directors, who shall appoint one of their own
 14 body President *pro tem.*, shall constitute a Board for the
 15 transaction of business. In case of vacancy in the of-
 16 fice of President or any Director, from death, resignation,
 17 or otherwise, such vacancy shall be supplied by appoint-
 18 ment of the Board, until the next annual meeting.

IV. *Be it further enacted*, That an annual meeting of
 2 the subscribers to the stock of the said Company shall be
 3 held at such time and place in each year as the Stock-
 4 holders, at their first general, or at any subsequent meet-
 5 ing, may appoint; to constitute which, or any general

6 meeting called by the President and Directors accord-
 7 ing to the provisions of this Act, a number of persons
 8 owning a majority of the shares of stock held by indi-
 9 viduals in said Corporation shall be present, either in
 10 person or by proxy ; and if a sufficient number to con-
 11 stitute a meeting do not attend on the day appointed,
 12 those who do attend shall have power to adjourn from
 13 time to time until a meeting shall be formed.

V. *Be it enacted*, That, in all general meetings of
 2 the said Company, each stockholder shall be entitled
 3 to give one vote for each share not exceeding ten shares,
 4 and one vote for every three shares above ten shares ;
 5 and it shall be lawful for the Board of Internal Improve-
 6 ments to appoint some suitable person to represent the
 7 interests of the State in all such meetings, who shall
 8 have a right to vote on all questions coming before
 9 them, except in the election of the Directors to be ap-
 10 pointed by the individual stockholders.

VI. *Be it enacted*, That the said President and Directors
 2 shall have full power and authority to make contracts
 3 with any person or persons, on behalf of the said Com-
 4 pany, for reconstructing said road, and performing all
 5 other works which, from time to time, may be neces-
 6 sary for the proper completion and repairs of the said
 7 road ; to require from the individual stockholders, from
 8 time to time, such advances of money on their respec-
 9 tive shares, as the wants of the Company may demand,
 10 until the whole of their subscription shall be advanced ;
 11 to call, in any emergency, a general meeting of the
 12 stockholders, giving one month's previous notice thereof
 13 in one or more newspapers ; to appoint a Treasurer,
 14 Clerk, and such other officers as they may require ; and
 15 generally to transact all the necessary business of the
 16 Company, during the intervals between the general
 17 meetings of the stockholders : *Provided*, that no loan,

18 which may be equivalent to an increase of the capital
 19 stock of said Company, and for which the assignable
 20 bonds, or other securities of the said Company are to be
 21 given, shall be made by the said President and Direc-
 22 tors, unless such loan be first authorised at a general
 23 meeting of the stockholders; and, in the event of such
 24 loan being made, that no dividend shall be paid upon any
 25 stock holden in said Company, until the interest upon
 26 such debts shall have been paid or reserved out of the
 27 profits, and a sinking fund, equivalent to at least six per
 28 centum per annum on such debt, shall have been likewise
 29 reserved, to be invested by the President and Directors
 30 in some good and valid security: *Provided further*, that
 31 all loans which may have been heretofore, or may be
 32 hereafter authorised by the said Stockholders in general
 33 meeting, shall be valid and obligatory upon the said
 34 Corporation.

VII. *Be it further enacted*, That, if any stockholder shall
 2 fail to pay the sum required of him by the President
 3 and Directors, within one month after the same shall
 4 have been advertised in one or more convenient news-
 5 papers, it shall and may be lawful for the said President
 6 and Directors to sell at public auction, and to convey to
 7 the purchaser, the share or shares of said stockholder so
 8 failing, giving one month's previous notice of the time
 9 and place of sale, in manner aforesaid; and, after retain-
 10 ing the sum due, and charges of sale, out of the proceeds
 11 thereof, to pay the surplus, if any, to the owner or his
 12 legal representative; and if the said sale shall not pro-
 13 duce the sum required to be advanced, with the inci-
 14 dental charges attending the sale, then the said Presi-
 15 dent and Directors may recover the balance from the
 16 original subscriber, or his assignee, or the executor or
 17 administrator of either of them, by suit in any Court of
 18 record having jurisdiction thereof, or by warrant before
 19 any Justice of the Peace of the county of which he is

20 a resident ; and any purchaser of the stock of the com-
 21 pany, under such sale, shall be subject to the same rules
 22 and regulations as the original proprietor. It shall, ne-
 23 vertheless, be lawful for the said President and Directors,
 24 if they deem it expedient, instead of selling the stock of
 25 delinquent subscribers, as contemplated by this section,
 26 to recover such sums as may be due the said Company
 27 from delinquent subscribers by suit in any Court of re-
 28 cord having jurisdiction thereof, or by warrant before any
 29 Justice of the Peace of the county in which such delin-
 30 quent stockholder is a resident.

VIII. *Be it further enacted*, That the said Railroad, and
 2 all engines, cars, and machinery, and all the works of
 3 said Company, together with all profits which shall
 4 accrue from the same, and all the property thereof of
 5 every description, shall be vested in the said Company,
 6 one-half thereof to the use and benefit of the State, and
 7 the other half to the use and benefit of the individual
 8 stockholders ; and the same shall be deemed and held
 9 to be personal estate, and shall be exempt from any
 10 public charge or tax whatsoever, for the term of fifteen
 11 years ; and thereafter the Legislature may impose a tax
 12 not exceeding twenty-five cents per annum, on each
 13 share of the capital stock held by individuals, whenever
 14 the annual profits shall exceed eight per cent.

IX. *Be it enacted*, That in case of a domestic invasion,
 2 or insurrection, the said Company shall transport the
 3 troops and munitions of war of the State of North
 4 Carolina free of charge.

X. *Be it enacted*, That the said Company shall give no
 2 undue preference to the property of one person over
 3 that of another, but as far as practicable, shall transport
 4 each in the order of time in which it shall be delivered
 5 or offered for transportation, the tolls thereon being

6 first paid or tendered. And, it shall be lawful for them
 7 to charge for the transportation of persons, goods, pro-
 8 duce and merchandise, and for the mail, any sum not
 9 exceeding the following rules: On persons, not exceed-
 10 ing six cents per mile for each person, unless the dis-
 11 tance which any person may be transported should be
 12 less than ten miles, in which case, an extra charge of
 13 fifty cents may be made for taking up and putting
 14 down such persons. For the transportation of produce,
 15 goods, wares, merchandise, and other articles, not exceed-
 16 ing an average of eight cents per ton per mile; and for
 17 the transportation of the mail, such sum as may be
 18 agreed upon between the Company and the Post Office
 19 Department of the United States.

XI. *Be it enacted*, That the President and Directors
 2 shall render distinct accounts of their proceedings and
 3 disbursements of money to each annual meeting of the
 4 stockholders.

XII. *Be it enacted*, That the President and Directors
 2 shall cause to be printed certificates of the shares of the
 3 stock in the said company, and whenever the terms
 4 hereinbefore mentioned, shall have been complied with,
 5 shall deliver one such certificate, signed by the President
 6 and countersigned by the Treasurer, to each person, for
 7 the number of shares subscribed by him, her, or them,
 8 or to the assignee of such subscriber, which certificate
 9 shall be transferable, either in person or by attorney, on
 10 the books of the said company; and on each such
 11 transfer, the assignee shall henceforth become a member
 12 of the said company, and shall be entitled to all the
 13 privileges, and subject to the rules and regulations of
 14 the same.

XIII. *Be it enacted*, That, whenever the General Assem-
 2 bly may be of opinion, that the charter hereby granted,

3 shall have been violated, it may be lawful, by joint
 4 resolution of the two Houses, to direct the Attorney
 5 General, with such assistant counsel as the Governor
 6 or the Legislature may think proper to engage, to issue
 7 a writ of *scire facias*, returnable before the Judges of the
 8 Supreme Court, calling upon the said corporation to
 9 show cause why their charter shall not be forfeited,
 10 subject to the same proceedings as are now prescribed by
 11 law, in case of other corporations. Their books shall
 12 be at all times open to the inspection of a committee of
 13 the General Assembly, appointed for that purpose, and
 14 the President of said company shall biennially make a
 15 report to the Legislature, on or before the third week of
 16 their session, of their receipts and expenditures, and of
 17 such other of their proceedings as he shall deem proper.

XIV. *Be it enacted*, That any railroad, which may
 2 hereafter be constructed by the State, or by any com-
 3 pany incorporated by the Legislature, shall be at liberty
 4 to cross the road hereby allowed to be constructed, upon
 5 a level or otherwise, as may be advantageous, provided
 6 the free passage of the Raleigh and Gaston road be not
 7 thereby obstructed.

XV. *Be it further enacted*, That whenever the said
 2 road shall be so crossed or approached by any other
 3 Railroad, incorporated by this State, the said Raleigh
 4 and Gaston Railroad company may erect a depot at or
 5 near the point of intersection, where they may receive
 6 and deliver passengers and freight, and take therefor the
 7 same rates of compensation, and be subject to the same
 8 rules and regulations as at other depots; and should
 9 they fail or refuse to erect such depots, the State or
 10 company owning such intersecting road, may erect one,
 11 and the company hereby incorporated shall receive and
 12 deliver passengers and freights at such depots, under
 13 the same regulations as aforesaid, unless the same shall

14 be rendered impracticable by the situation of the Rail-
15 road at that place.

XVI. *Be it further enacted,* That the profits of the said
2 company shall be divided annually or semi-annually, at
3 the pleasure of said company, one half thereof to the
4 State of North Carolina, to be paid to the Public Trea-
5 surer of the State, and the other half among the indi-
6 vidual stockholders, according to their respective shares.

XVII. *Be it further enacted,* That it shall be lawful for
2 the said President and Directors to sell the iron on the
3 Raleigh and Gaston Railroad, and apply the proceeds
4 thereof to the reconstruction of said road.

XVIII. AND WHEREAS, by the 50th and 52d sections of
2 the act incorporating the North Carolina Railroad com-
3 pany, power was expressly reserved to the General As-
4 sembly of the State, to establish, regulate and control
5 the intercourse between the North Carolina Railroad
6 and the Raleigh and Gaston Railroad, so as best to secure
7 to the public an easy and convenient passage of persons
8 and property, and for that purpose to form an actual
9 connexion between the said roads: Therefore, *Be it en-*
10 *acted,* That the President and Directors of the said
11 Raleigh and Gaston Railroad company, be. and they are
12 hereby authorised and empowered, whenever they may
13 think proper, to effect a junction, and to form an actual
14 connexion by Railroad, with the said North Carolina
15 Railroad, at such point at or in the vicinity of Raleigh,
16 as they in their discretion may select; and upon making
17 such connexion, the said Raleigh and Gaston Railroad
18 shall be extended to such point, and said connexion
19 shall belong to the said Raleigh and Gaston Railroad
20 company, in the same manner as the present road; and
21 to enable the said Raleigh and Gaston Railroad com-
22 pany to form such connexion, the President and Direc-

23 tors are hereby vested with full power and authority to
 24 make all necessary contracts for the construction of said
 25 road, and to resort to the same means for purchasing or
 26 condemning such lands as may be required therefor, as
 27 are provided in the act incorporating the said North
 28 Carolina Railroad company.

XIX. AND WHEREAS, It is provided by the 49th section
 2 of the act, incorporating the North Carolina Railroad
 3 Company, "that, whenever the Roanoke Railroad Com-
 4 pany, or the Seaboard and Roanoke Railroad Company,
 5 with or without the aid of individuals, shall subscribe
 6 to the Raleigh and Gaston Railroad Company one-half
 7 of the sum necessary to construct a Railroad from some
 8 convenient point on the Raleigh and Gaston Railroad,
 9 near the Littleton Depot, or any point between that
 10 Depot and Roanoke River and the town of Weldon, or
 11 any point in the neighborhood thereof, so as to connect
 12 with the Wilmington and Raleigh Railroad, and the
 13 Seaboard and Roanoke Rail Road, and shall expend the
 14 said sum in forming the said connection, then the said
 15 Raleigh and Gaston Railroad shall be extended to the
 16 said town of Weldon or neighborhood thereof; and the
 17 Public Treasurer is hereby authorized and directed to
 18 subscribe for an equal sum, for, and in behalf of the
 19 State, and pay for such subscription out of any money
 20 in the Treasury not otherwise appropriated; and for
 21 the want of such money in the Treasury, the Public
 22 Treasurer is hereby authorised to borrow the sum, at a
 23 rate of interest not exceeding six per cent. per annum,
 24 and to issue bonds, payable at any time within ten
 25 years, for not less than five hundred dollars each:"
 26 AND WHEREAS, the said Seaboard and Roanoke Rail-
 27 road Company, hath already subscribed to the said
 28 Raleigh and Gaston Railroad Company, the sum of
 29 seventy-five thousand dollars, for the purpose of con-
 30 structing said Road, which subscription hath been

31 accepted by the stockholders of said Raleigh and
 32 Gaston Railroad Company : AND WHEREAS, the
 33 said road hath been already located and commen-
 34 ced, and a large portion of said subscription hath
 35 already been paid by the said Seaboard and Roanoke
 36 Railroad Company towards the construction of said
 37 Road ; and WHEREAS, such connexion is deemed of
 38 great importance to the said Raleigh and Gaston Rail-
 39 road, and to the people of this State : *Be it therefore*
 40 *enacted*, That the said above recited section is hereby
 41 re-affirmed and re-enacted, and declared to be a part of
 42 the charter of the said Raleigh and Gaston Railroad
 43 Company, with the following provisions and amend-
 44 ments : "That for the purpose of rendering the same
 45 effectual, and of guarding the interests of the State, and
 46 of the said Raleigh and Gaston Railroad Company,
 47 William Collins, Francis Mallory, and Samuel J.
 48 Royster, are hereby appointed Commissioners to super-
 49 intend the construction of said connection, and the
 50 disbursement of the funds intended to be applied to the
 51 same, with power to employ a Treasurer for the safe
 52 keeping and disbursing the funds, and to require from
 53 said Treasurer, such bond as they may deem proper for
 54 the faithful discharge of his official duty.

XX. *And be it further enacted*, That said Commissioners
 2 shall have, and are hereby declared to have, all the powers
 3 and rights necessary to effect the construction of the said
 4 connection, and may, in their names, commence and pro-
 5 secute to judgment, all such proceedings as may be re-
 6 quisite and proper for the purpose of condemning any
 7 lands which may be required for the construction of
 8 said road, in the manner, and on the same process and
 9 conditions as are prescribed in the Act incorporating the
 10 North Carolina Railroad Company.

XXI. *Be it further enacted*, That, whenever the said
 2 road shall have been completed, it shall be the duty of

3 the said commissioners to make out duplicate reports of
 4 their proceedings, stating the particulars of the cost of
 5 construction of said road, one of which shall be made to
 6 the Governor of the State, the other to the President of
 7 the Raleigh and Gaston Railroad company, and upon
 8 the same being accepted, the cost of said construc-
 9 tion shall be added to and constitute a part of the capital
 10 stock of the said Raleigh and Gaston Railroad company,
 11 at the rate of one share for each hundred dollars of such
 12 cost, and shall vest one half in the stock of North Caro-
 13 lina, and one half in such corporations or individuals as
 14 may have subscribed to the said stock, according to the
 15 respective amounts of such subscription, their executors,
 16 administrators or assigns, and shall be for such amount
 17 an increase of the capital stock of said Raleigh and
 18 Gaston Railroad company, over and above the sum of
 19 eight hundred thousand dollars, hereinbefore declared
 20 to be the capital of the said company : and thereupon
 21 the said Raleigh and Gaston Railroad shall be extended
 22 to the said town of Weldon, or such point in the
 23 vicinity thereof, as such connexion may be formed, and
 24 all the lands purchased or condemned for the construc-
 25 tion of said road, together with all materials used in the
 26 construction thereof, depots, warehouses and all other
 27 property pertaining to the same, and all privileges, rights
 28 and forms which may be necessary for doing the trans-
 29 portation of freight and passengers on said road, shall
 30 be, and the same are hereby declared to be, vested in
 31 the said Raleigh and Gaston Railroad company, in the
 32 same manner and to the same extent as if such con-
 33 nexion had constituted a portion of the original Raleigh
 34 and Gaston Railroad.

XXII. *Be it further enacted*, That, in the event of va-
 2 cancy in the said Board of Commissioners, by death,
 3 resignation or otherwise, such vacancy shall be supplied
 4 by the President and Directors of the Raleigh and Gas-
 5 ton Railroad Company.

XXIII. *Be it further enacted*, That it shall and may be
2 lawful for the President and Directors of the said Ra-
3 leigh and Gaston Railroad Company to contract with
4 the President and Directors of the Roanoke Valley Rail-
5 road, or with the President and Directors or Managers
6 of any other Railroad connecting with the said Raleigh
7 and Gaston Railroad, for doing the transportation of
8 freight and passengers on such Road or Roads, upon
9 such terms as may be agreed on between them.

XXIV. *Be it further enacted*, That that this Act shall
2 take effect immediately from and after its acceptance
3 by three-fourths of the stockholders of the said Raleigh
4 leigh and Gaston Railroad Company, in general meet-
5 ing assembled, such acceptance to be signified to the
6 Governor of the State by the President of said Company
7 under the great seal of the same, and shall continue in
8 force for the term of ninety years from and after such
9 acceptance.

A BILL

TO

TO ASCERTAIN THE WILL

OF THE

FREEMEN OF NORTH CAROLINA,

ON CALLING A

CONVENTION.

RALEIGH:

SEATON GALES, PRINTER TO THE LEGISLATURE.

1852

A BILL

[Introduced by Mr. J. M. LEACH.—Read the first time and passed, and laid on the table and ordered to be printed.]

A BILL

To ascertain the will of the freemen of North Carolina as to the call of a Convention on the Federal basis.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the Courts of Pleas and Quarter Sessions of each and every county in the State, at the first term that shall be held after the first day of March, A. D. 1853, shall appoint two inspectors to superintend the polls to be opened at each and every election precinct in said counties, for ascertaining, by ballot, the will of the freemen of North Carolina, relative to the meeting of a Convention to amend and alter the Constitution of this State ; the delegates to which to be elected on the basis on which the members of the House of Commons are now elected. And if any Court or Courts shall fail to make such appointments, or if any inspector, so appointed, shall fail to act, it shall be the duty of the Sheriff, or the person acting as his deputy on such occasion, or some Justice of the Peace, or two freeholders present, to appoint an inspector or inspectors in the place of him or them who fail to act ; which inspector or inspectors, when duly sworn by some Justice of the Peace or freeholder, to perform the duties of the place with fidelity, shall have the same authority as if appointed by the Court.

II. *Be it further enacted*, That it shall be the duty of the
 2 Sheriffs of the respective counties of this State, to open
 3 polls at the several election precincts in said counties, on
 4 the first Thursday in August, 1853, when and where all
 5 persons qualified by the Constitution to vote for mem-
 6 bers of the House of Commons may vote for or against
 7 a State Convention; those who wish a Convention vo-
 8 ting with a printed or written ticket "Convention," and
 9 those who do not want a Convention voting in the
 10 same way "No Convention," or "Against Convention."

III. *Be it further enacted*, That it shall be the duty of
 2 the Sheriffs to make duplicate statements of their polls,
 3 in their respective counties, sworn to before the Clerk
 4 of the County Court, one copy of which shall be depo-
 5 sited in said Clerk's office, and the other transmitted to
 6 the Governor of the State at Raleigh, within thirty days
 7 after said election. And if any Sheriff or other officer
 8 appointed to hold said elections, shall fail to com-
 9 ply with the requirements of this Act, he shall be
 10 liable to a fine of one thousand dollars, recoverable in
 11 the County or Superior Court, to the use of the County
 12 whose officer he is, in an action of debt, in the name of
 13 the State; and it shall be the duty of County Solicitors,
 14 and Solicitors of the respective Judicial Circuits in the
 15 State, to prosecute such suits.

IV. *Be it further enacted*, That it shall be the duty of the
 2 Governor to communicate to the next General Assem-
 3 bly the result of said vote of the freemen of the State,
 4 relative to said Convention, in order that said General
 5 Assembly may certainly know whether the people of
 6 North Carolina are willing to trust their Constitution
 7 in the hands of Delegates elected by themselves on the
 8 said Federal basis.

[HOUSE DOCUMENT, No. 6.]

[Introduced by Mr. C. J. WEBB—Read the first time, passed, and ordered to lie on the table, and be printed.]

A BILL

To appoint Tax Collectors for the State of North Carolina.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That, hereafter, there shall be a Tax Collector elected in each and every county of this State, to be chosen biennially, as sheriffs are now chosen, and to hold their office for the same term.*

II. *Be it further enacted, That at the next regular election for sheriffs, which shall happen on the first Thursday in August, A. D. 1854, polls shall be opened at every election precinct in each county in this State, for the purpose of electing a Tax Collector for said county, and the election shall be held under the direction and supervision of inspectors appointed by the County Courts of the respective counties, in the same manner that inspectors, or judges of sheriff's elections are now appointed, and said inspectors shall make due returns of the several elections held under their supervision in the same manner that judges of sheriffs' elections are now required to do.*

III. *Be it further enacted*, That every person who is
 2 entitled to vote for sheriff, shall likewise be entitled to
 3 vote for Tax Collector, in the county in which he re-
 4 sides, and the person receiving the highest number of
 5 votes, shall be declared duly elected, and in case two or
 6 more persons should receive the same number of votes,
 7 the sheriff shall give the casting vote, and in no other
 8 case shall the sheriff be entitled to vote for Tax Collec-
 9 tor.

IV. *Be it further enacted*, That every person elected as
 2 aforesaid, shall, before he enters upon the duties of his
 3 office, and at the first term of the County Court which
 4 happens in his county, next after the election, enter into
 5 bond, in the sum of ten thousand dollars, with good and
 6 sufficient securities, to be judged of by said Court, a ma-
 7 jority of the justices of said county being present, which
 8 said bond shall be made payable to the State of North
 9 Carolina, and conditioned for the faithful discharge of
 10 the duties of his office, and that he shall diligently en-
 11 deavor to collect all the taxes due the State, as well
 12 as those due the county and to the wardens of the poor,
 13 and all other public taxes that may be levied in his
 14 county, and that he shall faithfully pay over and ac-
 15 count for the same to the authorities entitled to receive
 16 them, which said bonds, so executed, shall be recorded
 17 and registered, and deposited for safe-keeping in the
 18 office of the clerks of the County Courts.

V. *Be it further enacted*, That every Tax Collector,
 2 elected by virtue of this act, shall, before he enters upon
 3 the duties of his office, take an oath of office, and as
 4 soon as he is duly installed, and enters upon his duties,
 5 the sheriffs of the several counties shall have no autho-
 6 rity to collect taxes, nor shall they be in any manner
 7 responsible for the same.

VI. *Be it further enacted*, That said Tax Collectors
 2 shall and may receive, by way of compensation for their
 3 services, rendered by virtue of this act, per cent,
 4 upon all monies by them collected, and per cent
 5 for all monies by them disbursed in and for the benefit
 6 of their respective counties, and shall render an annual
 7 statement, with proper vouchers, of all their collections
 8 and disbursements, to the County Courts of their respec-
 9 tive counties ; and for the taxes paid in the State trea-
 10 sury, they shall receive such compensation as has here-
 11 tofore been allowed to sheriffs.

VII. *Be it further enacted*, That said Tax Collectors
 2 for the proper discharge of their duties, shall be invest-
 3 ed with the same powers, and shall be liable to the same
 4 penalties that sheriffs were heretofore invested with and
 5 liable to.

VIII. *Be it further enacted*, That it shall be the duty
 2 of the County Courts of the several counties, to furnish
 3 the Tax Collector of their respective counties, a dupli-
 4 cate of the tax list, in the same manner they have here-
 5 tofore furnished them to their sheriffs ; and it shall fur-
 6 ther be the duty of the said clerks to furnish the Comp-
 7 troller of Public Accounts with the name of the Tax
 8 Collector of their respective counties, and also the names
 9 of the sureties to his bond, at the same time that they
 10 make their annual returns to said Comptroller.

IX. *Be it further enacted*, That said Tax Collectors shall
 2 annually make their settlements with the Comptroller
 3 of the State, on or before the 1st day of October, and
 4 upon their failure to do so, they shall be liable in the
 5 same manner that sheriffs have heretofore been liable.

X. *Be it further enacted*, That all laws and clauses of
 2 laws, conflicting with this act, be, and the same are here-
 3 by repealed.

XI. *Be it further enacted*, That this act be in force
 2 from and after its ratification.

By your Honors (No. 2).

And it is further ordered, that the same be

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[HOUSE DOCUMENT, No. 7.]

[Introduced by Mr. W. LANDER.—Read the first time and passed, and referred to the Committee on the Judiciary and ordered to be printed.]

A BILL


Declaratory and explanatory of the meaning of the second section of an Act in the Revised Statutes, Chapter 36th, entitled "Divorce and Alimony."

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That when a marriage hath been heretofore, or shall be hereafter, contracted and celebrated between any two persons, and it shall be found and adjudged, in the manner prescribed in the 39th Chapter of the Revised Statutes, entitled "Divorce and Alimony," that the female party to said marriage, at the time of said marriage, was pregnant with child, and that the child with which she was pregnant was not begotten by her said husband, or by a former deceased husband, and that her said husband had no knowledge of the fact at the time of the said marriage, the said fact, so found and adjudged as aforesaid, shall be considered good and just cause for divorce from the bonds of matrimony: *Provided, nevertheless,* that any person continuing to bed and cohabit with his said wife for six months after the condition of his said wife shall become known to him, shall not be entitled to any benefit from this Act.

II. *Be it further enacted,* That this Act shall be in force from and after its ratification.

(Introduced by Mr. CARMICHAEL.—Read the first time, passed, and referred to the Judiciary Committee, and ordered to be printed.)

A BILL

To repeal, in part, an act passed at the session of the General Assembly in 1848-'49, entitled "an act to secure the title of purchasers of lands, sold under execution," and ratified on the 29th day of January, A. D. 1849. 

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by the autho-*
3 *rity of the same,* That so much of the above recited act
4 as was intended to perfect the title of purchasers of
5 land, sold under a writ or writs of execution before said
6 act was in force, and all and every part thereof,
7 which gives a retrospective effect to the same, be, and
8 the same is hereby repealed; and on all questions
9 hereafter arising in any judicial proceeding, where
10 either party claims title under a sale, made prior to the
11 time at which said act took effect and went into ope-
12 ration, the Courts shall hold and apply the law as it ex-
13 isted before the passage of said act.

[HOUSE DOCUMENT, No. 9.]

[Introduced by Mr. WYNNE.—Read the first time and passed; referred to Committee on the Judiciary, and ordered to be printed.]

A BILL

To extend the Jurisdiction of Justices of the Peace, in certain cases.

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by the au-*
3 *thority of the same,* That in all cases of debts origi-
4 nating from leases and rents of land, it shall and may
5 be lawful, in the collection thereof, to include the right
6 of possession of the premises to the plaintiff, in a war-
7 rant; and upon the refusal of the defendant to give
8 such possession, the Justice of the Peace, before whom
9 the warrant may be returned, shall and may render
10 judgment and execution for both debt and possession in
11 a summary way, so as to effect the objects of possession
12 and collection of the debt, by authorising the officer, if
13 necessary, to summon one or more persons to his aid, so
14 as to place the owner in possession; *Provided,* That
15 nothing herein contained shall be construed to prevent
16 either plaintiff or defendant from appealing or staying
17 execution as in other cases.

[HOUSE DOCUMENT, No. 10.]

Introduced by Mr. R. H. SMITH.—Read the first time and passed, and ordered to be printed.

A BILL

Concerning the Embankment of Low Grounds.

WHEREAS, for the embankment of low grounds, whereby
2 persons wishing to protect their own lands from over-
3 flow, by an embankment, which must, of necessity, be
4 erected upon or through the land of another person or
5 persons, so as to reach the high land above an overflow,
6 no remedy is provided by law :

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by the autho-*
3 *rity of the same,* That any person or persons wishing
4 to embank their lands, and unable to do so by means of
5 the lands of another person or persons lying between
6 their land and the high land, it shall be lawful for such
7 person or persons to prefer a petition to the Court of
8 Pleas and Quarter Sessions of the county wherein the
9 said lands may be situated, setting forth the particular
10 circumstances of his or her case, situation of the lands,
11 and in what direction he or she may wish the embank-
12 ment to be located. Whereupon, the Court shall appoint
13 five freeholders, in the said county, not attached to either
14 party by consanguinity or affinity, who shall go upon
15 the premises and examine the ground so petitioned to
16 be embanked, and that through which the embankment
17 shall pass; and also whether such embankment shall
18 appear necessary; and, further, they shall direct the
19 embankment to be laid out in such a manner, and to
20 such an extent, as, in their opinion, will most effectually

21 ally secure the lands of the petitioners from inundation :
 22 And when the same shall appear necessary, the damage
 23 shall be paid before the petitioner or petitioners proceed
 24 to construct the embankment through or upon such
 25 proprietor or proprietors' land ; and when the petition-
 26 er or petitioners aforesaid shall have so paid to the pro-
 27 prietor or proprietors aforesaid the damages or injury
 28 the jury may judge he or they sustained, he or they,
 29 their heirs or assigns, so paying, shall thereafter be vest-
 30 ed with a good and sufficient title in fee for the lands so
 31 petitioned for : *Provided*, That not more than five times
 32 the base of the said embankment shall be condemned to
 33 the petitioner or petitioners.

II. *Be it further enacted*, That, in all cases where a jury
 2 is appointed for the purposes aforesaid, it shall be their
 3 duty to make a return of their proceedings to the next
 4 Court of Pleas and Quarter Sessions of the county,
 5 which shall be recorded ; and each of the jury appoint-
 6 ed as aforesaid shall be entitled to the sum of one dol-
 7 lar for each day that may necessarily be employed in
 8 laying off said ground, which sum shall be paid to each
 9 juryman by the petitioner or petitioners : *Provided*, that
 10 nothing in this Act shall be so construed as to authorise
 11 the running of any embankment through the yard or
 12 curtelage of any proprietor without the consent of such
 13 proprietor : *Provided, also*, that no such embankment
 14 shall be so constructed as to obstruct the free passage
 15 of water, when there is no fresh, along any ditch the
 16 owner of lands so condemned may have cut for the
 17 drainage of his lands, or from putting a fence or pass-
 18 way across such embankment.

III. *Be it further enacted*, That either party may appeal
 2 from the verdict of the jury, at the term of the Court
 3 when the proceedings are returned by the jury ; and the
 4 costs of such appeal shall be paid by the party cast
 5 therein.

[Introduced by MR. CALDWELL.—Read the first time and passed, and ordered to be laid on the table and printed.]

A BILL

To Incorporate the Greensboro' Mutual Life Insurance and Trust Company.

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by the autho-*
3 *rity of the same,* That Ralph Gorrell, Lindon Swaim,
4 Jesse H. Lindsay, Richard Greene, David McLean,
5 Richard Sterling, John M. Logan, John L. Cole, D. P.
6 Weir, James Jimmeson, E. W. Ogburn, Robert M.
7 Sloan, D. C. Mebane, Robert P. Dick, E. Watson, D.
8 F. Caldwell, John A. Gilmer, John M. Morehead, Henry
9 B. Elliott, Robert H. Scales, sr., Samuel Hargrave, and
10 Benjamin Trollinger, and all and every other person or
11 persons who may hereafter become associated with them,
12 their successors and assigns, be, and hereby are,
13 created and made a body corporate and politic, by the
14 name, style and title of the *Greensborough Mutual Life*
15 *Insurance and Trust Company*, to be located in the
16 town of Greensborough, in the county of Guilford, at
17 such place as may be assigned by a majority of the
18 company present, at any regular meeting, and by that

19 name, they and their successors, during the continuance
 20 of the act, shall, and may have succession, and shall be
 21 capable of suing and being sued, pleading and being
 22 impleaded, answering and being answered unto, defen-
 23 ding and being defended in all matters and causes what-
 24 soever.

II. *Be it further enacted*, That said company shall
 2 have authority to make and to have a common seal, and
 3 the same to break, alter, and renew at pleasure, and also
 4 to ordain, establish, and put in execution, such by-laws,
 5 ordinances, and regulations, as shall appear necessary
 6 and convenient for the government of said corporation,
 7 not being contrary to the laws of the United States, or
 8 of this State, and generally to do all, and singular, the
 9 matters which to them shall lawfully appertain to do,
 10 for the well being of said corporation, and the managing
 11 and ordering the affairs thereof. And, also, that they
 12 and their successors, by the name of the Greensborough
 13 Mutual Life Insurance and Trust Company, shall have
 14 power to purchase, receive, have, hold, and enjoy, to
 15 them and their successors, lands, tenements, heredita-
 16 ments, goods and chattels, of what nature, quality, or
 17 kind, soever, real, personal or mixed, and the same,
 18 from time to time, to sell, demise, grant, alien, or dispose
 19 of; *Provided*, That the said real estate shall be only
 20 such as shall be necessary to accommodate the said cor-
 21 poration in the transaction of the business thereof, or
 22 shall be taken and held as security for the payment of
 23 debts due the corporation, and that the yearly income of
 24 said real estate shall not, at any time, exceed ten thous-
 25 and dollars.

III. *Be it further enacted*, That all persons, who shall
 2 at any time hereafter, insure in or with said corporation,
 3 for the whole continuance of life, shall, while they con-

4 time so insured, be deemed and taken as members of
 5 said corporation, entitled to all the rights, privileges, and
 6 profits of said corporation, and, that the property and
 7 concerns of said corporation shall be managed by thir-
 8 teen directors, who shall choose from their own body a
 9 President, all of whom shall be citizens of the State, and
 10 members of this corporation. They shall hold their
 11 office for one year, or until others are chosen. An
 12 annual meeting of the members of the corporation shall
 13 be held, for the purpose of electing a Board of Directors
 14 at such time and place, in the town of Greensborough
 15 as the corporation in its by-laws shall appoint; of
 16 which election, public notice shall be given in one or
 17 more public newspapers printed in Greensborough, at
 18 least thirty days preceding the election, and such elec-
 19 tion shall be made by ballot—a plurality of votes pre-
 20 sent shall ensure an election. And if any of the said
 21 Directors shall die, or refuse to serve, or neglect to act
 22 in their said office, for the space of two months, then
 23 and in every such case, the Board of Directors shall
 24 have power to fill such vacancies until the next annual
 25 meeting; and that a majority of the foregoing names
 26 mentioned in Sec. 1st of this Act, may, and shall meet
 27 in the town of Greensborough, within three months after
 28 the ratification of this act, then and there to organize
 29 said Company, by electing a Board of Directors, from
 30 and amongst the names mentioned in the 1st Sec. of
 31 this Act, who shall continue in office until the next
 32 annual meeting of said corporation.

IV. *Be it further enacted*, That it shall be lawful for said
 2 corporation to insure their respective lives, and to make
 3 all and every insurance, appertaining to, or connected
 4 with, life risks, of whatsoever kind or nature, as well
 5 of the sound in health, as the infirm and invalid.

V. *Be it further enacted*, That it shall be lawful for any
 2 married woman, by herself, and in her name, or in the
 3 name of any third person, with his assent as her trustee,
 4 to cause to be insured for her sole use, the life of her
 5 husband, for any definite period, or for the term of his
 6 natural life, and, in case of her surviving her husband,
 7 the sum or nett amount of insurance becoming due and
 8 payable by the terms of the insurance, shall be payable
 9 to her, to and for her own use, free from the claims of the
 10 representatives of her husband, or any of his creditors.

VI. *Be it further enacted*, That the husband may insure
 2 his own life, for the sole use and benefit of his wife and
 3 children, and in case of the death of the husband, the
 4 amount thus insured shall be paid over to the wife and
 5 children, or their guardian, (if under age,) for her or
 6 their own use, free from the claims of the representatives
 7 of the husband, or any of his creditors.

VII. *Be it further enacted*, That the said Company be au-
 2 thorized and empowered, to accept and receive monies,
 3 or other property, real or personal, in trust, to accumu-
 4 late the interest or income thereof, at such rates and in
 5 such manner, as may be agreed on, or to allow or pay
 6 such interest or income therefor and thereon, as may be
 7 stipulated and agreed on between the parties: *Provided*
 8 That no part of said funds of said corporation shall be
 9 loaned to any officer or director of this corporation; and,
 10 also, that said corporation be empowered to accept and
 11 execute trusts of any and every description, which may
 12 be committed or transferred with their consent to them,
 13 by any person or persons, whatsoever, body politic or
 14 corporate, or by any court of the United States, or of
 15 the State of North Carolina, and, that in all discounts
 16 or loans to be made by said corporation, it shall not
 17 take more than 6 per cent. per annum, which interest
 18 shall be taken in advance at the time of discount.

VIII. *Be it further enacted*, That where application is made to any court in the State of North Carolina, for the appointment of any trustees, or of assignees, or of guardian of any minor, or committee of a lunatic, it shall and may be lawful for such court, if they think proper, to appoint said company, with their consent, such trustee, assignee, or guardian of the estate of such minor, or committee of such lunatic, and the accounts of said company as such trustee, or assignee, or guardian, or committee, shall be regularly settled and adjusted before the proper tribunals, and upon such settlement and adjustment, all proper, legal, usual and customary charges, costs and expenses, shall be allowed to said company, for their care and management of the trusts and estates aforesaid; and the said company, as such trustee, assignee, guardian or committee, shall be subject to all orders or decrees made by the proper tribunals, under the laws of the State. Upon any sum not less than one hundred dollars, which shall be collected or received by said company in its capacity of trustee, assignee, guardian, committee, or receiver, under the order of any court of justice, a reasonable interest shall be allowed, of not less than 4 per cent. per annum, which interest shall continue to accrue, until the monies so received shall be duly expended and paid over or distributed. When the annual income of an infant of whose estate the said company shall be the guardian, shall exceed the sum allowed, or which may be sufficient for the education, maintenance and support of said infant, such surplus income shall be accumulated by said company, for the benefit of said infant, by adding annually on the whole as a new principal, the interest so to be allowed and added, in no case to be less than 4 per cent. per annum.

IX. *Be it further enacted*, That the said company shall and may issue certificates for the amount of all monies

3 deposited with them in trust, which certificates shall be
 4 assignable and transferable, under such regulations as
 5 may be prescribed by the President and Directors, and
 6 that all certificates or evidences of deposits made by the
 7 proper officer shall be as effectual to bind said corpora-
 8 tion, as if they were under the common seal thereof.

X. *Be it further enacted*, That when any court shall
 2 appoint said company a trustee, assignee, guardian of
 3 any minor, or committee of any lunatic, or deposits
 4 with said company any monies, such court may from
 5 time to time, appoint a suitable person to investigate
 6 the affairs and management of said company, who shall
 7 report to such court, the manner in which its invest-
 8 ments are made, his opinion of the ability and integrity
 9 with which the affairs of the company are conducted, of
 10 the prudence and safety of its investments, and the se-
 11 curity afforded to those by whom its engagements are
 12 held. And, also, that the affairs of said company shall
 13 and may be open to investigation by the Treasurer of
 14 this State, or to any other person the General Assembly
 15 of the State of North Carolina may from time to time
 16 appoint.

XI. *Be it further enacted*, That it shall and may be law
 2 ful to invest the capital stock of said company, accruing
 3 from the premiums for insurance, for the grant and sale
 4 of annuities, and endowments in trust, or for any other
 5 transaction authorized by these acts, in the funded debts
 6 of the United States, or any of the United States, or in
 7 the stock of any chartered or incorporated Bank, or in
 8 the stock or loan of any chartered or incorporated Ca-
 9 nal, Bridge, Navigation, or Road Company, or any com-
 10 pany which now is, or hereafter may be incorporated by
 11 this State, or the United States.

XII. *Be it further enacted*, That the capital stock of
 2 said company shall not exceed two hundred and fifty
 3 thousand dollars, unless by consent of the General As-
 4 sembly.

XIII. *Be it further enacted*, That the President and Di-
 2 rectors, for the time being, shall have power to appoint
 3 such officers, clerks, agents, and other persons, as shall
 4 be necessary for conducting and executing the business
 5 of said corporation, as well in the town of Greensborough
 6 as elsewhere, and to allow the said persons so appointed,
 7 such compensation for their services respectively, as
 8 they shall deem reasonable, and generally to exercise all
 9 other powers and authorities for the well-governing and
 10 ordering the affairs and funds of said corporation, as this
 11 act confers or allows, or as may hereafter be allowed by
 12 the laws, regulations and ordinances of said corporation.

XIV. *Be it further enacted*, That no policy shall be
 2 issued by this corporation, until application be made for
 3 insurance for forty thousand dollars at least.

XV. *Be it further enacted*, That this act shall continue
 2 in full force until the year of our Lord one thousand
 3 nine hundred and twelve.

XVI. *Be it further enacted*, That this act shall take effect
 2 immediately after its ratification.

[HOUSE DOCUMENT, No. 12.]

A BILL

TO PROVIDE

FOR THE APPOINTMENT

OF A

Superintendent of Common Schools,

AND

FOR OTHER PURPOSES.



RALEIGH:
SEATON GALES, PRINTER TO THE LEGISLATURE.

1852

[Introduced by Mr. CHERRY.—Read the first time and passed, and referred to Committee on Education—ordered to be printed.]

A BILL

To provide for the appointment of a Superintendant of Common Schools, and for other purposes.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That there shall be appointed a Superintendant of Common Schools for the State, the said officer to be chosen by the Legislature, and to hold his office for two years from the time of his election, *Provided,* that this act shall not be so construed as to prevent the Superintendant for the time being from continuing in office until a successor is duly appointed.

II. *And be it further enacted,* That the 18th section of the "act of Assembly establishing and regulating Common Schools," printed and published under the direction of the President and Directors of the Literary Fund, in the year 1849, in compliance with the act of the General Assembly of 1848-'49, be so amended as to make it the duty of the Chairmen of the Boards of county Superintendants to make their reports on or before the 3rd Monday in November, and to send the same to the Superintendant of Common Schools for the State; and that the said Chairmen of county Superintendents shall, in addition to the matters already required by law

13 to be stated in their reports, make a statement of the
 14 number of certificates issued during the year preceding
 15 the making of said report to Teachers by the Commit-
 16 tee of Examination, designating in separate columns,
 17 the number of female teachers, and the number of male
 18 teachers, and giving the names of the Committee of
 19 Examination.

III. *And be it further enacted,* That the act of Assem-
 2 bly passed at its Session in 1846-'47, chapter 106,
 3 section—, be so amended as to make it the duty of the
 4 Board of Superintendents of Common Schools in each
 5 county in the State to appoint a Committee of Exami-
 6 nation consisting of not more than five persons, of whom
 7 the Chairman of the Board of county Superintendents
 8 shall be one, whose duty it shall be to examine into the
 8 qualifications, both mental and moral, of all such per-
 9 sons as may apply for employment as teachers in any
 10 of the Common Schools in their respective counties;
 11 which said Committee of Examination shall be conven-
 12 ed by the Chairman of the Board of Superintendents,
 13 at least three times during the year, at some central
 14 point in each county, of which times and places of
 15 meeting, the said Committee or its Chairman shall post
 16 a written notice at the door of the Court House of the
 17 county. And the said Examining Committee shall
 18 continue in office for one year, or until their successors
 19 are appointed; and each member, while continuing to
 20 accept and to discharge the duties of his appointment
 21 on said Committee, shall be exempt from road and mili-
 22 tary duties.

IV. *And be it further enacted,* That no certificate issued
 2 to a teacher, by a Committee of Examination, shall be
 3 good for a longer term than one year from the date
 4 thereof; and a certificate issued in any one county of

e5 the State shall not be good or valid in any other county
6 of the State.

V. *And be it further enacted,* That in all counties where
2 there are Committees of Examination, the Chairmen of
3 the Boards of county Superintendents are authorized to
4 refuse to pay drafts drawn upon them in favor of Teach-
5 ers, for compensation for teaching Common Schools,
6 unless said teachers exhibit a regular certificate of men-
7 tal and moral qualifications from the majority of said
8 Examining Committee, dated not more than one year
9 from the exhibition thereof.

V. *And be it further enacted,* That it shall be the duty
2 of the first Superintendent of Common Schools for the
3 State appointed under the provisions of this act, to col-
4 lect accurate and full information of the condition and
5 operations of the system of Free or Common Schools in
6 each county in the State, and of the size of the school
7 districts—to inform himself as well as possible of the
8 causes, whether local or general, which have affected
9 the success or impeded the operations of the system, in
10 different sections—to consult with experienced teach-
11 ers, when possible, and to collect statistics and informa-
12 tion of matters materially affecting the cause of educa-
13 tion in the State, and on or before the third Monday in
14 November, 1854, to make a report in writing to the
15 Governor of the State, furnishing a detailed, succinct
16 and condensed statement of the result of his enquiries
17 in each county, of the history and prospects of the Free
18 School system in the State, with such suggestions and
19 observations as may occur to him; which report shall
20 be transmitted by the Governor to the Legislature of
21 the State, that the said body may thus be in possession
22 of such information as will enable it to modify, if nec-
23 essary, revise and digest all the laws in force in regard

24 to Common Schools, and to make such additions and
 25 alterations as may be proper to insure the greater suc-
 26 cess and efficiency of the system.

VI. *And be it further enacted*, That it shall be the duty
 2 of the Superintendent of Common Schools for the State
 3 to superintend the operations of the system of Common
 4 Schools, and to see that the laws in relation thereto are
 5 enforced—to call on the Chairmen of the different
 6 Boards of county Superintendents who fail to make re-
 7 turns to him according to the provisions of this act—to
 8 see that monies distributed for the purposes of education
 9 are not misapplied, and to see that the proper actions,
 10 provided for by law, are brought against all the officers
 11 and agents of the system who are liable to the same.
 12 It shall also be the duty of said Superintendent, under
 13 the direction of the Literary Board, to look after es-
 14 cheated property ; and to employ, in each county of the
 15 State, attorneys of skill in the law, to recover on behalf
 16 and in the name of the President and Directors of the
 17 Literary Fund, all escheats in their several counties,
 18 and to sell the same if they be not in money, under the
 19 directions of the said Superintendant and the President
 20 and Directors of the Literary Fund, and pay the pro-
 21 ceeds thereof to the Treasurer of the State for the use
 22 and benefit of the Literary Fund.

VII. *And be it further enacted*, That it shall be the duty
 2 of the Treasurer of the State to furnish an annual state-
 3 ment to the Superintendent of Common Schools, of the
 4 several sums disbursed from the Literary Fund to the
 5 different Counties of the State, and of the names of the
 6 persons receiving the same, for and on behalf of said
 7 counties.

VIII. *And be it further enacted*, That the Superinten-
 2 dent of Common Schools for the State shall annually

3 issue to to the examining Committee of each County, a
 4 circular letter of instructions and suggestions as to the
 5 qualifications of teachers. And it shall also be the duty
 6 of said Superintendent of Common Schools for the State,
 7 to have prepared and to send to the Chairman of County
 8 Superintendents, printed blanks, upon which to make
 9 their returns to him, all of which said returns or re-
 10 ports, when received by the Superintendent of Common
 11 Schools for the State, shall be filed in the office of the
 12 State, in the capital, in Raleigh.

IX. *And be it further enacted,* That it shall be duty of
 2 the Superintendent of Common Schools for the State,
 3 to arrange in convenient form and order, all the laws of
 4 this State in relation to Common Schools now in force,
 5 or in force after the passage of this act, with a state-
 6 ment of the funds of the Literary Board, or chart of
 7 forms for committee men and examining committees,
 8 with forms of bonds, instructions to agents and officers
 9 of the system, and explanations—which work, when ap-
 10 proved by the President and Directors of the Literary
 11 Fund, shall be printed, and the copies distributed by the
 12 said Superintendent of Common Schools for the State,
 13 as follows: one copy for every school committee man,
 14 member of examining committee, member of the board
 15 of county superintendents, and five for the clerk of the
 16 the county court of each county in the State, to be sent
 17 to the chairman of the board of county superintendents,
 18 and by him distributed, and five hundred copies to be
 19 desposited in the office of the Governor of the State.

X. *And be it further enacted,* That it shall be the duty
 2 of the Superintendent of Common Schools for the State,
 3 on or before the first Monday in January, in each and
 4 every year, to make a written report to the Governor
 5 of the State, giving a detailed and condensed account

6 of the manner in which he has performed his several
 7 duties, of the operations of the system of Common
 8 Schools, together with such suggestions and recommen-
 9 dations as he may deem proper—with tables showing
 10 the number of white persons five years old, and under
 11 twenty-one in each county in the State—the number
 12 who have attended school during the year, the length
 13 of time during which the schools have been kept open in
 14 each county, the number of school districts in each
 15 county, the number of male and female teachers li-
 16 censed in each county, to teach Common Schools du-
 17 ring the year, and the average salaries of the teachers—
 18 of which reports the Governor shall cause 150 copies
 19 to be printed in cheap pamphlet form, 50 for his own
 20 use, and 100 for the use of the said general Superinten-
 21 dent, and copies of which reports shall be communica-
 22 ted by the Governor to the Legislature, at its regular
 23 sessions.

XI. *And be it further enacted,* That the Superintendent
 2 of Common Schools for the State shall be allowed for
 3 his services under this act, the sum of one thousand five
 4 hundred dollars per annum, to be paid out of the monies
 5 of the Literary Fund, by the Treasurer of the State,
 6 and in the mode and at the times that other public offi-
 7 cers of the State are paid.

XII. *And be it further enacted,* That this act shall be in
 12 force from and after its ratification.

Introduced by Mr. MOORING.—Read first time and passed; ordered to be printed and referred to Committee on Corporations.

A BILL

Concerning Private Corporations.

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by the autho-*
3 *rity of the same,* That hereafter the Justices of the seve-
4 ral County Courts in this State (a majority of whom
5 being present) shall have sole and exclusive jurisdiction
6 in all cases of application for incorporating cities, towns,
7 seminaries of learning and all charitable or benevolent
8 institutions, which application shall be made by petition
9 in writing from five or more discreet and respectable
10 persons, who are required to be citizens of the county in
11 which said petition is filed setting forth the name, loca-
12 tion and boundary of the city or town, or the name and
13 location of the seminary of learning or charitable or
14 benevolent institution, as the case may be, which city,
15 seminary of learning, or charitable or benevolent insti-
16 tution, is required to be situated in said county: also,
17 setting forth the names of the commissioners, trustees or
18 other officers, as the case may be, of such city, town
19 seminary of learning or charitable or benevolent insti-
20 tution.

II. *Be it further enacted,* That upon application, as
 2 hereinbefore directed, for the incorporation of any city,
 3 town, seminary of learning, or charitable or benevolent
 4 institution, as the case may be, the said Court shall
 5 cause the same to be entered on their Docket, and said
 6 petition filed in the clerk's office, as a part of the re-
 7 cords thereof, and notice of the same to be given in
 9 some newspaper printed in their respective county, or in
 10 case there be no newspaper printed as aforesaid, then
 11 notice to be given at the Court House door and three
 12 other public places in said county, for six weeks pre-
 13 vious to the next term of said Court, at which time
 14 they shall hear and determine the allegations set forth
 15 in said petition; and if there be no good reason shown
 16 to the contrary, the said Court, a majority of the Jus-
 17 tices being present, may grant their petition, with such
 18 limitations and restrictions as they, in their discretion.
 19 may deem necessary.

III. *Be it further enacted,* That upon said Court grant-
 2 ing the petition, as hereinbefore directed, the persons
 3 therein named as the commissioners, trustees or other
 4 officers of said city, town, seminary of learning, or
 5 charitable or benevolent institution, as the case may be,
 6 they and their successors in office are hereby declared to
 7 be a body politic, under the name and style, as may be
 8 designated in the order or decree of said Court, and in
 9 that name they may sue and be sued, plead and be im-
 10 pleaded, have and use a common seal, establish all such
 11 constitutions and bye-laws as may be necessary for the
 12 better regulation and government of said corporation
 13 or body politic, not inconsistent with the Constitution
 14 and laws of the United States or of this State.

IV. *Be it further enacted,* That nothing in this act shall
 2 be so construed as to allow any County Court in this

3 State, the power and authority of incorporating or
4 granting corporate privileges to any banking company
5 or institution, railroad, plank or turnpike road, canal or
6 or other companies of internal improvements, by whom
7 toll can be charged; nor shall any such city, town,
8 seminary of learning, or charitable or benevolent insti-
9 tution, be allowed in any case the right to issue Bills of
10 Credit or Bills of Exchange, or engage in or carry on
11 any system of banking.

V. *Be it further enacted*, That the several County
2 Court clerks in this State shall be allowed the same
3 fees for services required by this act, as they are now
4 allowed by law in ordinary cases of petition, and which
5 shall be paid by the petitioners.

VI. *Be it further enacted*, That all laws and clauses
2 of laws coming within the meaning and purview of this
3 act, be, and the same are hereby repealed, and that this
4 act be in force from and after its ratification.

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TO ESTABLISH

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1871

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[HOUSE DOCUMENT, No. 14.]

A BILL
TO ESTABLISH

THE

Farmers' Bank

OF

NORTH CAROLINA.



RALEIGH:
SEATON GALES, PRINTER TO THE LEGISLATURE.

1852

A BILL

[Introduced by Mr. Brooks.—Read the first time and passed, and referred to Committee on Corporations—ordered to be printed.]

A BILL

To establish the Farmers' Bank of North Carolina.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by authority of the same,* That a Bank shall be established in the town of Elizabeth City, the capital stock of which shall not exceed five hundred thousand dollars, divided into shares of one hundred dollars each; and that for the purpose of receiving subscription for said stock, books shall be opened on the 1st day of February, 1853, and remain open for the space of sixty days, at Elizabeth City, under the superintendence of the following persons, or a majority of them, to-wit: John J. Grandy, C. G. Lamb, James M. Whedbee, W. W. Griffin, Barney Tisdale, and Joseph H. Pool; and at such other places, and under the superintendence of such persons, as said Commissioners may direct.

II. *Be it further enacted,* That one-tenth of such shares shall be paid in gold or silver, or their equivalent, to the Commissioners above named, at the time of subscribing; that another tenth shall be paid within thirty days thereafter; that another tenth shall be paid within sixty days; that another tenth shall be paid within ninety days; that another tenth shall be paid within one hundred and twenty days; and that the remainder shall be paid as the President and Directors hereinafter provided to be elected, may direct; and if any subscriber shall fail to pay any instalment at the time stipulated, he shall

12 pay interest thereon at the rate of six per cent. per an-
 13 num, and his or her stock shall be forfeited, and may be
 14 sold by the Bank, and the proceeds applied to the pay-
 15 ment of the aforesaid deficient instalment, and he shall
 16 be held responsible for the same at the option of the
 17 Bank, and the balance, if any, of such sale, to be paid
 18 over the said subscriber ; *Provided*, That no dividend
 19 shall be declared until the whole amount of stock sub-
 20 scribed shall be paid in gold or silver, or their equiva-
 21 lent.

III. *Be it further enacted*, That when one thousand
 2 shares are subscribed, and the sum of twenty-five thou-
 3 sand dollars is actually paid in to the Commissioners,
 4 the subscribers to the said Bank, their successors and
 5 assigns, shall be, and they are hereby created a body
 6 politic in law and in fact, by the name and style of
 7 “The Farmers’ Bank of North Carolina,” and shall so
 8 continue until the first day of January, one thousand
 9 eight hundred and eighty ; and by the name and style
 10 aforesaid, they shall be, and they are hereby made able
 11 and capable in law, to have, purchase, receive, possess,
 12 enjoy and retain to themselves and successors, lands,
 13 tenements, rents, hereditaments, goods, chattels, and
 14 effects ; and the same to grant, alien and dispose of ;
 15 to sue and be sued, implead and be impleaded, answer
 16 and be answered, defend and be defended in courts of
 17 record, or any other place whatsoever ; and, also, to
 18 make, have and use, a common seal, and the same to
 19 break, alter or renew. at their pleasure ; and, also, to
 20 ordain, establish and put in execution, such by-laws,
 21 ordinances and regulations, as shall seem necessary and
 22 convenient for the government of said corporation ; and
 23 for the making whereof, general meetings of the stock-
 24 holders may be called in the manner hereafter specified ;
 25 and generally, to do and execute all acts, matters and

26 things which a corporation and body politic in law may
 27 or can lawfully execute ; and be subject to the rules,
 28 regulations, restrictions and provisions hereafter pre-
 29 scribed and declared.

IV. *Be it further enacted*, That as soon as one thou-
 2 sand shares shall be taken in the stock of said Bank,
 3 and twenty-five thousand dollars paid to the Commis-
 4 sioners who keep the books, notice shall be given in the
 5 newspapers published in the town of Elizabeth City,
 6 and a meeting of the subscribers, to be held in ten days
 7 at least after the date of the notice, shall be called. If
 8 at this meeting, those, or their agents, who have a ma-
 9 jority of votes according to the rates hereafter described,
 10 be present, (if not, another meeting shall be called,) they
 11 shall proceed to the election of *Five* Directors, who
 12 shall take charge of the books and money in the hands
 13 of the Commissions, and immediately pursue the usual
 14 means to put the Bank in operation. The said Direc-
 15 tors shall remain in office until first Monday in April,
 16 1854, or until their successors shall be appointed ; and,
 17 on the first Monday in April in each year, or at any time
 18 thereafter, meetings of the stockholders shall be held
 19 in the town of Elizabeth City, for the purpose of electing
 20 Directors, inquiring into the affairs of the institution,
 21 and making such regulations as may be deemed fit and
 22 necessary.

V. *Be it further enacted*, That the following rules, regu-
 2 lations and provisions, shall form and be the fundamental
 3 articles of the constitution of the corporation. A meet-
 4 ing of the stockholders cannot be held unless those who
 5 have a majority of the whole number of votes be pre-
 6 sent, and every act shall require the sanction of a ma-
 7 jority of the votes which may be present ; every stock-
 8 holder holding one share and not more than two, shall

9 be entitled to one vote ; for every two shares above two
 10 and not exceeding ten, one vote ; for every three shares
 11 above ten, not exceeding fifty, one vote ; and for every
 12 five shares above fifty one vote. After the first meet-
 13 ting, no share nor shares shall confer a right of voting,
 14 which shall not have been holden three calendar months,
 15 previous to the day of voting ; stockholders may vote at
 16 general meetings and elections by proxy, the proxy be-
 17 ing himself a stockholder. No President, cashier, agent
 18 or clerk of the principal Bank, its officers and agencies,
 19 shall be permitted to vote as proxy for another. None
 20 but a stockholder who is a citizen of the State shall be
 21 eligible as a director ; and the directors when appointed
 22 shall choose one of their number (which shall always be
 23 five) to be President of the Bank, and shall manage the
 24 institution as shall seem best to them, unless otherwise
 25 directed by the stockholders ; but compensation to the
 26 President and Directors shall be granted at the pleasure
 27 of the stockholders. Not less than three directors, of
 28 whom the President shall always be one, shall constitute
 29 a board for the transaction of business, except in case
 30 of absence or sickness of the President, when he may
 31 by writing, nominate any other director to supply his
 32 place ; a number of stockholders, not less than ten, who
 33 together shall be the owners of one thousand shares or
 34 more, shall have power at any time to call a meeting of
 35 the stockholders for purposes relative to the institution,
 36 giving at least twenty days notice, in a public Gazette,
 37 and specifying the objects of the meeting. The direc-
 38 tors shall annually elect such officers as may be deem-
 39 ed necessary to perform the business of the Bank, and
 40 may remove them or either of them at pleasure. Those
 41 officers shall be required to give bonds, with good and
 42 sufficient security, in sums not less than ten thousand
 43 dollars, with a condition for good behavior and faithful
 44 performance of duty. The cashier shall keep a book to

45 contain the proceedings of the Board of Directors, the
 46 names of those present, the day and date of each meet-
 47 ting, and shall record the yeas and nays on any question
 48 when asked for by a director ; this book shall be evi-
 49 dence in courts of justice, against said Bank, and on
 50 entering on the discharge of his duties, the cashier shall
 51 take the following oath or affirmation before some Jus-
 52 tice of the Peace, by whom it shall be deposited in the
 53 office of the county court clerk of Pasquotank, viz : "I,
 54 A. B., do solemnly swear (or affirm as the case may be)
 55 to keep a just and true record, without alteration in, or
 56 erasure of, the transactions of the Board of Directors,
 57 of the Farmers' Bank of North Carolina, in a book to be
 58 kept by me for that purpose." The said corporation
 59 shall purchase and hold only such lands, tenements,
 60 rents and hereditaments as shall be requisite for the
 61 convenient transaction of its business, or shall have been
 62 *bona fide* mortgaged to it by way of security or con-
 63 veyed to it in satisfaction of debts previously contract-
 64 ed in the course of its dealings, or purchased at sale,
 65 upon judgments, which shall have been obtained for
 66 such debts. The said corporation shall neither direct-
 67 ly nor indirectly trade in any thing except Bills of Ex-
 68 change, Promissory Notes, and bonds, expressing on the
 69 face of them to be negotiable and payable at said bank,
 70 gold or silver bullion, or in the sale of goods really and
 71 truly pledged for money lent, and not redeemed in due
 72 time, or in goods which shall be the produce of its
 73 lands, mint certificates, and the public debts of the
 74 United States : *Provided*, The investment in such
 75 stock shall not exceed one-half of the capital stock of
 76 this bank. Neither shall the said corporation take
 77 more than at a rate of six per cent. per annum, for or
 78 upon its loans and discounts, which interest may be
 79 taken in advance, at the time of discount. The total
 80 amount of the debts which said corporation shall at any

81 time owe, shall not exceed twice the amount of the
 82 stock actually paid in over and above the sum then
 83 actually deposited in the bank for safe-keeping. If a
 84 vacancy in the Directory shall occur, by death, resig-
 85 nation or otherwise, the remaining Directors shall fill
 86 such vacancy until the succeeding annual meeting of
 87 the stockholders. The stock of the said corporation
 88 shall be assignable and transferable, according to the
 89 rules which shall be instituted in that behalf, by the laws
 90 and ordinances of the same. The officer at the head of
 91 the Treasury Department of the State shall be furnish-
 92 ed once in six months, with a statement of the amount
 93 of capital stock of said corporation, and the debts due
 94 the same, of the moneys deposited therein, of the notes
 95 in circulation, and of the cash in hand, and shall have a
 96 right to inspect such general accounts in the books of
 97 the Bank as shall relate to the said statement : *Provided*,
 98 this shall not be construed to be a right of inspecting
 99 the accounts of any private individual with the Bank,
 100 except of the creditors. The bills obligatory and of
 101 credit, under the seal of said corporation, which shall
 102 be made to any person or persons, shall be assignable
 103 by endorsement thereon, under the hand or hands of
 104 such person or persons, and of his, her or their assignee
 105 or assignees, and so as absolutely to transfer and vest
 106 the property therein in each and every assignee or as-
 107 signees successively, and to enable such assignee or
 108 assignees to bring and maintain an action thereupon in
 109 his, her or their names ; and bills or notes which may be
 110 issued by order of said corporation, signed by the Pres-
 111 ident and countersigned by the Cashier, promising the
 112 payment of money to any person or persons, his, her
 113 or their order, or to bearer, though not under the seal
 114 of said corporation, shall be binding and obligatory on
 115 the same, in the like manner and with the like force
 116 and effect as upon any private person or persons : that

117 is to say, those which shall be payable to any person or
 118 persons, his, her or their order, shall be assignable by
 119 endorsement in like manner and with like effect as
 110 foreign bills of exchange now are; and those which are
 121 payable to bearer shall be negotiable and assignable by
 122 delivery only.

VI. *And be it further enacted*, That if any person or
 2 persons, holding any note or notes of said Bank, shall
 3 present the same for payment, and payment shall be
 4 refused, the said note or notes shall draw interest at the
 5 rate of twelve per cent. per annum, from the time of
 6 said demand, and the said Bank shall pay the same, any
 7 law to the contrary notwithstanding; and the holder of
 8 the notes of said Bank, if not paid on demand, may bring
 9 an action of assumpsit against one or all of the Directors
 10 who may have consented to issue more than twice the
 11 stock paid in; *Provided*, The Bank be unable to pay
 12 the amount.

VII. *And be it further enacted*, That in case of an in-
 2 solvency of the Bank hereby created, or ultimate ina-
 3 bility on the part of the corporation^a to pay, the individ-
 4 ual stockholders shall be liable to creditors, in sums
 5 double the amount of stock by them respectively held
 5 in said corporation.

VIII. *Be it further enacted*, That the Directors shall be
 2 allowed to keep open the subscription books until the
 3 whole of the stock shall be taken.

IX. *Be it further enacted*, That if a Director, or any
 2 other officer, agent or servant of said corporation, shall
 3 embezzle any of the funds belonging to said Bank, with
 4 the intent to defraud said corporation, or make false
 5 entries upon the books of said Bank, with intent to de-

6 fraud said corporation, or any other person whomsoever,
 7 said officer, agent or servant, shall be held and deemed
 8 guilty of felony, and upon conviction thereof by due
 9 course of law, shall be punished by fine at the discretion
 10 of court, and imprisonment not exceeding five years.

X. *Be it further enacted*, That if any person shall falsely
 2 make, forge or counterfeit, or cause or procure to be
 3 falsely made, forged or counterfeited, or willingly aid or
 4 assist in falsely making, forging or counterfeiting any
 5 bill or note in imitation of, or purporting to be a bill or
 6 note issued by order of the President and Directors of
 7 the Farmers' Bank of North Carolina, or any order or
 8 check upon said bank or cashier thereof; or shall falsely
 9 alter or procure to be falsely altered or willingly aid or
 10 assist in falsely altering, any bill or note issued by order
 11 of the said corporation, or any order or check on said
 12 bank or cashier thereof; or shall pass, or receive with
 13 intent to pass, alter, or publish as true, any false, forged or
 14 counterfeited bill or note issued by order of said corpo-
 15 ration, or any false, forged or counterfeited check or
 16 order upon the said bank or cashier thereof, knowing
 17 the same to be falsely forged or counterfeited, or shall
 18 pass or receive, with intent to pass or publish as true,
 19 any falsely altered bill or note, issued by order of said
 20 bank, or any falsely altered order or check on said bank,
 21 or any cashier thereof, knowing the same to be falsely
 22 altered, with intent to defraud the said corporation, or
 23 any other body politic or person or persons; every such
 24 person shall be deemed guilty of felony, and being
 25 thereof convicted by due course of law, shall be im-
 26 prisoned, not exceeding ten years, and fined not exceed-
 27 ing five thousand dollars.

II. *Be it further enacted*, That the President and Cashier
 2 of said bank shall annually pay into the Treasury of the

3 State, twenty-five (25) cents on each share of said capi-
 4 tal stock, which may have been subscribed for, and paid
 5 in; and the first payment of said tax shall be made
 6 twelve months after said bank shall have commenced
 7 operations.

XII. *Be it further enacted*, That the Directors of said
 2 bank may declare, semi-annually, dividends of the
 3 profits thereof; and if at any time more than the real
 4 profits are divided, the Directors assenting thereto shall
 5 be responsible, in their private capacities, to creditors
 6 who have claims against the said institution.

XIII. *Be it further enacted*, That the President of said
 2 Bank, shall, in the first week in December, in each and
 3 every year, transmit to the General Assembly a full
 4 statement of the condition of the Bank, exhibiting the
 5 amount of capital, notes in circulation, debts due to other
 6 Banks, and to what Banks deposited, and all other par-
 7 ticulars necessary to explain the debit side of the ac-
 8 count; also, specie on hand, notes of other Banks, Bills
 9 of Exchange, debt on bonds and notes discounted,
 10 specifying, in one item, the amount due from stockhol-
 11 ders, and in another, the amount due from directors, not,
 12 however, using any person's name in either case, and
 13 the real estate.

XIV. *Be it further enacted*, That if any President,
 2 Cashier, Clerk or other officer of the aforesaid Bank,
 3 shall, knowingly, willingly, and with intent to deceive,
 4 make, or cause to be made, or connive at making any
 5 false return, statement or exhibit of the condition of the
 6 Bank, either to the Treasurer of the State, to the Legis-
 7 lature, or to the Board of Directors, or to the stock-
 8 holders, or to any other persons that may be authorised
 9 by the Legislature, or by the Stockholders, to receive

10 the same, such President, Directors, Cashier, Clerk or
 11 other officer, and all persons aiding or abetting in such
 12 deception or false return, shall be liable to be indicted for
 13 a misdemeanor, in the Superior Courts, and upon con-
 14 viction, shall be fined at the discretion of the Court, and
 15 imprisoned not exceeding one year.

XV. *Be it further enacted*, That whenever the Legis-
 2 laturo shall be of the opinion, that the charter of the
 3 corporation, hereby granted, shall have been violated,
 4 it may be lawful, by joint resolution, to direct the Attor-
 5 ney General, with such assistant counsel as the Gover-
 6 nor or the Legislature may think proper to engage, to
 7 issue a writ of *scire facias*, returnable before the Judges
 8 of the Supreme Court, calling upon said corporation to
 9 show cause why the charter, hereby granted, shall not
 10 be forfeited, subject to the same proceedings as are now
 11 prescribed by law as in cases of other corporations.

[HOUSE DOCUMENT, No. 15]

HOUSE OF COMMONS, Oct. 13, 1852.

[Read first time and passed, and referred to Committee on Judiciary.]

HOUSE OF COMMONS, Oct. 20, 1852.

[Read second time—amendment proposed by Committee adopted, and ordered to be laid on the table, and printed.]

A BILL

To pay Tales Jurors.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That hereafter in cases where Tales Jurors shall be required to serve in either the County or Superior Courts of the counties of this State, they shall be entitled to the same *per diem* compensation as jurors summoned on the original panel, and the clerk of each court, is hereby required to give each Tales Jurors a certificate of attendance, which the Sheriff or county Trustee shall pay in the same manner as jurors of the regular panel are now paid.

II. *Be it further enacted,* That this act shall be in force from and after its ratification.

SUBSTITUTE PROPOSED.

A BILL

To pay Tales Jurors.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That hereafter all Tales Jurors who shall be summoned in either the Courts of Pleas and Quarter Sessions, or the Superior Courts of Law of this State, and who shall actually serve on the jury without being discharged before the hour of sunset of the day on which they are summoned, shall be entitled to the same *per diem* compensation, as jurors summoned on the original panel.

II. *Be it further enacted,* That all Tales Jurors who shall be summoned in either of the Courts aforesaid, and who shall be compelled to attend Court on any other day than the day on which they were summoned, and shall actually serve on the jury, shall be entitled to the same *per diem* compensation and *mileage* as jurors summoned on the original panel, and the clerks of the respective courts aforesaid are hereby required to give each Tale Juror a certificate of attendance, in conformity to the provisions of this act, which the Sheriff or county Trustee shall pay in the same manner as jurors of the regular panel are now paid.

III. *Be it further enacted,* That this act shall be in force and take effect from and after its ratification.

[HOUSE DOCUMENT, No. 16.]

A MEMORIAL.

*To the Honorable, the General Assembly
of North Carolina :*

Your Memorialists respectfully shew, that on Monday, the 18th day of October, 1852, there was formed in the City of Raleigh, a State Agricultural Society, composed of Delegates representing County Associations, and of citizens from different parts of the State, all interested in the great cause of Agriculture, the leading interest of North Carolina: That the Society was duly organized on a permanent basis, officers elected, and a constitution and by-laws adopted; and that this Association, whose object is the advancement of the industrial interests of the Commonwealth, having made an auspicious beginning, it was deemed important to its continued existence and success, that it receive the countenance and support of the State: it was, therefore, resolved to memorialize your honorable body, on the justice and expediency of an appropriation from the State Treasury, to promote these objects; and the undersigned were appointed a Committee to draft said Memorial.

In obedience to said resolution, your Memorialists respectfully solicit the attention of your honorable body, to this interesting subject, and earnestly request your favorable consideration of the same.

They would respectfully represent, that the cause of Agriculture has, heretofore, been in a languishing condition in North Carolina—that it has been too much neglected by men of science, and that with a climate and soil unsurpassed, our beloved State has taken a humiliating position in the rear of her sisters, in Agricultural and Industrial improvement.

They would farther represent and allege, that one great cause of this is the neglect by the State, of her farming interests and the interests of her laboring classes, and that since her existence as a distinct sovereignty, North Carolina, absorbed in federal politics and seemingly unmindful of her true interests, has never encouraged by example, by bounties or by special legislation, competition and skill in the development of her great Agricultural resources.

And your Memorialists farther allege that, in modern countries, our career as a State is, in this respect, without an example or parallel; and that we have arrived at a period when a change is imperatively demanded by the honor and the welfare of the State, and by the increasing wants and necessities of the times.

And as a farther reason for a change in this respect, your Memorialists respectfully represent, that there are visible signs of an awakening among our people—that they are beginning to appreciate their natural advantages, to deplore their backwardness in industrial improvements, and to seek for means to retrieve the neglect of former years. At such a crisis, the example of the public authorities can be made very effective for good; and a State Agricultural Society, properly endowed, can give a powerful impetus to the forward movement, by begetting and fostering a general rivalry in the race of improvement, by diffusing valuable information, by enhancing the dignity of labor, and of science directed to the most important pursuits of man, by adding also more interest, excitement and pleasure to this calling in the eyes of those who follow it, by breaking down the barriers of sectional prejudices that divide our citizens,

bringing them together, in pleasant association, from the east, the west, the north and the south, and thereby adding to their knowledge of the products and people of different sections of their own commonwealth, and by helping to create and stimulate to a healthful vigor, proper feelings of State pride, and interest in NORTH CAROLINA as one, undivided State of various interests, and abounding resources, true to itself and devoted to the welfare of its inhabitants.

The farmers and mechanics compose the majority of the constituents of your honorable body—their prosperity is the prosperity of our common State, and now, amid the din of politics, they venture to appeal to your honorable body for a slight exertion of authority in their behalf.

A small appropriation will give enduring vitality to our Institution, giving great promise of usefulness to them and to us all; and such an appropriation will be returned with ten-fold interest, in the taxes collected from a prosperous community, with means and resources multiplied by your liberality. Without such an appropriation, the State Agricultural Society, so auspiciously organised, may come to a premature end, thus adding to the gloom that surrounds us, and giving new force to the sad vaticinations of those who assert that every enterprise must prove a failure in North Carolina. And your memorialists as in duty bound, &c., &c

K. RAYNER,	}	<i>Committee.</i>
N. W. WOODFIN,		
THOS. J. LEMAY,		
RICH'D H. SMITH,		
LEWIS THOMPSON,		
C. H. WILEY,		

RESOLUTION.

Resolved, 'That the Treasurer of the State be authorised to pay to Wilson W. Whitaker, Treasurer of the State Agricultural Society, one thousand dollars, to be applied by said Society, for the promotion of the laudable objects for which it was organised.

[HOUSE DOCUMENT, No. 17.]

[The Committee on Finance, to whom was referred the bill to repeal in part the 31st section of the Revised Statutes, chapter 102, have had the same under consideration, and instructed me to report the bill back to the House, and recommend that *it do not pass.*]

J. B. CHERRY, for the Committee.

A BILL

To repeal in part the thirty-first (31) section of the one hundred and second (102) chapter of the Revised Statutes, concerning the Revenue.

1. *Be it enacted by the General Assembly of the State of*
 2 *North Carolina, and it is hereby enacted by the autho-*
 3 *rity of the same, That so much of the before recited act,*
 4 *as authorises and requires the owner of land lying in*
 5 *two or more counties, to list the same in the county*
 6 *where such owner may reside, or in either county in*
 7 *which such land may be situated, be, and the same is*
 8 *hereby repealed; and that, hereafter, the owner of a*
 9 *tract or tracts of land lying in two or more counties,*
 10 *shall be listed by said owner in the county in which*
 11 *said land may be situated, under the same rules, regu-*
 12 *lations and restrictions, now prescribed by law.*

1811

- To establish a University of the State of New York
1. That the Governor of the State of New York do cause to be printed and distributed to the several counties of the State a copy of the following Act.
 2. That the Governor do cause to be printed and distributed to the several counties of the State a copy of the following Act.
 3. That the Governor do cause to be printed and distributed to the several counties of the State a copy of the following Act.
 4. That the Governor do cause to be printed and distributed to the several counties of the State a copy of the following Act.
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 12. That the Governor do cause to be printed and distributed to the several counties of the State a copy of the following Act.
 13. That the Governor do cause to be printed and distributed to the several counties of the State a copy of the following Act.
 14. That the Governor do cause to be printed and distributed to the several counties of the State a copy of the following Act.

[HOUSE DOCUMENT, No. 18.]

[Introduced by Mr. EURE.—Read first time and passed;
and laid on the table and ordered to be printed.]

A BILL

To establish a Homestead Freehold, by exempting from execution a certain portion of the land of any citizen of the State of North Carolina.

1. *Be it enacted by the General Assembly of the State of*
 2 *North Carolina, and it is hereby enacted by the author-*
 3 *ity of the same, That from and after the first day of*
 4 *January, 1855, any citizen of the State of North Caro-*
 5 *lina, who may be seized of any lands in said State, may*
 6 *file a petition in the Superior or County Courts of the*
 7 *county, wherein the same may be situated, praying to*
 8 *have a Homestead Freehold laid off, in such lands as*
 9 *the petitioner may designate; and thereupon, the Court*
 10 *shall direct the sheriff to summon three disinterested*
 11 *freeholders, who shall upon oath allot to said petitioner,*
 12 *by metes and bounds, Fifty Acres of Land, including*
 13 *the dwelling house, and out-houses, where the petitioner*
 14 *is seized of fifty acres or more; but if he be seized of*

15 a less quantity, the whole: *Provided*, That when the
 16 homestead freehold is laid off in any town, it shall in
 17 no case exceed the dwelling house and lot: *And pro-*
 18 *vided*, The homestead freehold shall in no case include
 19 any building not connected with the dwelling house,
 20 such as mills and store houses, and the like, and make
 21 return thereof to the said Court, which return shall be
 22 certified by the clerk of said Court, and registered in
 23 the register's office of the county.

II. *Be it further enacted*, That the homestead freehold,
 2 so laid off, shall be exempt from execution for any cause
 3 of action accrued after the 1st day of January, 1855,
 4 nor shall any person taken under a *capias ad satis fa-*
 5 *ciendum*, for any cause of action accrued as aforesaid,
 6 be compelled to surrender his homestead freehold, but
 7 the same shall be exempted as arms for muster.

III. *Be it further enacted*, That no conveyance by the
 2 husband of the homestead freehold so laid off shall be
 3 valid, without the consent of the wife, as in cases of
 4 conveying the wife's land; and such homestead freehold
 5 shall constitute the wife's dower, if the husband be
 6 seized of no more land at his death, and shall constitute
 7 a part of her dower, when he dies seized of more land;
 8 *Provided*, This act shall not prevent any person from
 9 disposing of or selling, as he now can, the whole of his
 10 land, until the homestead be laid off.

IV. *Be it further enacted*, That whenever any execu-
 2 tion for any cause of action aforesaid, accrued as afore-
 3 said, shall be issued to any officer, under which it shall
 4 be necessary to sell the land of the debtor, it shall be
 5 the duty of the officer, at the request of the debtor, to
 6 summon three disinterested freeholders, who shall, be-
 7 fore any sale is made, lay off the homestead freehold as
 8 above directed; and if the officer so requested shall re-

9 fuse or neglect to comply with the directions of this
 10 act, he shall be liable to indictment or for misdemeanor
 11 in office, and the homestead freehold so refused to be
 12 laid off shall be in the same situation as if laid off under
 13 the directions of the 1st and 2d sections of this act.

V. *Be it further enacted*, That the homestead freehold
 2 shall not exceed fifty acres of land, nor five hundred
 3 dollars in value.

VI. *Be it further enacted*, That the sheriff, clerk, and
 2 register, shall have the same fees as is now allowed by
 3 law in analogous cases.

VII. *Be it further enacted*, That all laws and clauses of
 2 laws, coming within the meaning and purview of this
 3 act be, and the same are hereby repealed.

[HOUSE DOCUMENT, No. 19.]

[Introduced by S. P. HILL.—Read first time and passed ; ordered to be printed and referred to Judiciary Committee.]

A BILL

To facilitate the Recovery of Debts due from non-resident Debtors.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That hereafter, when any debtor, who resides beyond the limits of this State, shall have any personal estate or effects *in the hands of any executor, administrator or trustee* in this State, it shall be lawful for any creditor of said non-resident debtor, to file a bill in Equity against the said debtor and other necessary and proper parties to the suit, and to prove his debt upon the hearing of the said suit, and obtain a decree for the payment of the amount of his debt, to be satisfied out of the said estate and effects ; and that it shall not be necessary, in such cases, for the creditor to obtain a judgment at law, and issue an execution thereon, before filing his bill in a Court of Equity.

II. *Be it further enacted,* That no final decree shall be made, subjecting any estate or effects, in the hands of an executor or administrator, to the payments of any debts due from a non-resident debtor, until after the lapse of two years from the time of the qualification of said executor or administrator ; and that it shall be the

7 duty of the Court, whenever any decree may be made
 8 as aforesaid, to require the creditor to give such a re-
 9 funding bond as the debtor himself would have been re-
 10 quired to give, if he had received from the executor or
 11 administrator his legacy or distributive share.

III. *Be it further enacted*, That it shall be lawful for the
 2 creditor, in such cases, to file his bill before the expira-
 3 tion of two years, and that the said bill, when filed,
 4 shall render null and void any assignment thereafter
 5 made by the debtor, so far as the said assignment may
 6 tend to defeat the plaintiff in the collection of the debt
 7 for which he may obtain a decree.

IV. *Be it further enacted*, That when any decree shall
 2 be made under the provisions of this act, against any
 3 executor, administrator or trustee, it shall be lawful for
 4 the Court, in the decree which may be made in the
 5 cause, to require from the creditor a full and ample in-
 6 demnity, such as the Court may deem reasonable and
 7 proper under all of the circumstances, to protect and
 8 defend said executor, administrator or trustee, against
 9 all loss in consequence of said decree, if said executor,
 10 administrator or trustee should be sued by the debtor in
 11 a Court of any other State, in which the said decree
 12 might not be recognized as binding.

V. *Be it further enacted*, That no final decree against a
 2 trustee, under the provisions of this act, shall be made
 3 until after the affairs of the trust are closed and settled,
 4 but that the bill may be filed before that time, and when
 5 filed, shall render null and void any assignment there-
 6 after made, so far as said assignment may tend to de-
 7 feat the plaintiff in the collection of the debt, for which
 8 he may obtain a decree.

VI. *Be it further enacted*, That no decree shall be made
 3 in favor of any creditor under this Act, unless he shall

3 make it appear, to the satisfaction of the Court, that the
4 debtor hath no estate or effects in this State, upon which
5 an original attachment might be levied.

VII. *Be it further enacted*, That whenever a bill shall
2 be filed, under the provisions of this Act, it shall be re-
3 quired of the plaintiff to make affidavit to the truth of the
4 facts therein set forth, according to the course and prac-
5 tice in Courts of Equity, in those cases in which bills are
6 required to be sworn to.

VIII. *Be it further enacted*, That any defendant in said
2 bill, who resides beyond the limits of this State, may be
3 made a party, by publication in some newspaper, in the
4 same manner as is usual in Courts of Equity as to non-
5 resident defendants.

IX. *Be it further enacted*, That this Act shall take ef-
2 fect from and after the date of its ratification.

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[HOUSE DOCUMENT, No. 20.]

Introduced by S. F. PHILLIPS.—Read first time and passed, and referred to Committee on Judiciary. Read second time and laid on the table.]

A BILL

To facilitate the decision of controversies at law, arising upon instruments under seal.

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by the author-*
3 *ity of the same, That in controversies upon instru-*
4 *ments under seal, arising at law, it shall be admissible,*
5 *under the plea of non est factum, to impeach the con-*
6 *sideration of the contract, in the same manner as now*
7 *allowed under other pleas, in cases of contracts not*
8 *sealed.*

REPORT.

The Committee on the Judiciary to whom this was referred, have had the same under consideration, and have instructed me to Report it back to the House, with a recommendation that it do *not* pass,

W. W. AVERY.

HOUSE OF COMMONS, October 25, 1852.

The above Bill and Report were taken up; and, with the proposed amendment of Mr. Phillips, laid on the table and ordered to be printed.

A M E N D M E N T

To a Bill, entitled "a bill to facilitate controversies upon sealed instruments arising at law."

Strike out all after the words "Be it enacted by the General Assembly of the State of North Carolina," and insert the following :

I. That in any action founded upon any specialty or other contract, for the payment of money, or the delivery of property, the defendant, by special plea, or by notice attached to, and filed with the plea of the general issue, may allege the want or failure of the consideration, in the whole, or in any part thereof, of such specialty or other contract, as aforesaid : and if any specialty, or other contract for the payment of money, or delivery of property, is alleged by either party in any other stage of the proceedings, the other party may aver in answer, and prove on the trial, the want or failure, in the whole or in part, of the consideration of such specialty, or other contract, as aforesaid : and whenever such specialty, or other contract, for the payment of money, or delivery of property, shall be given in evidence, in any Court, by either party, without being pleaded, the other party may prove the want or failure of the consideration, in the whole or in part, of such specialty, or other contract, as aforesaid : *Provided*, That nothing in this section contained, shall be construed to affect or impair the right of any *bona fide* assignee or assignees of any specialty or other contract in writing, made negotiable by the law of this State, and transferred before the maturity of the same.

[Read the first time and passed. Ordered to be printed, and referred to the Committee on Internal Improvements.

A BILL

To incorporate the North Carolina and Tennessee Railroad Company.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That, for the purpose of effecting a railroad communication between the North Carolina Railroad, at the town of Salisbury, and the town of Knoxville, Tennessee, the formation of a corporate company, with a capital stock of three millions of dollars, is hereby authorised, to be called the North Carolina and Tennessee Railroad Company; and, when formed in compliance with the conditions hereinafter prescribed, to have a corporate existence as a body politic in perpetuity.

II. That the said company be, and the same is hereby, authorised to construct a railroad commencing at a point upon the North Carolina railroad, at or near the town of Salisbury, in the county of Rowan, and thence, by the most practicable route across the Blue Ridge, to the line of the State of Tennessee: said line to be intersected at such point as will form a junction with a railroad or railroads from Knoxville to the dividing line between the States of North Carolina and Tennessee.

III. That, for the purpose of forming the said capital stock of said company, the following persons be, and the same are hereby, appointed commissioners, namely:

4 That it shall and may be lawful to open books in the
 5 town of _____, under the direction of _____,
 6 or any three of them. At

IV. That all persons who may hereafter be authorized
 2 to open books for subscription of stock by the commis-
 3 sioners herein appointed for that purpose, shall open said
 4 books at any time after the ratification of this act, twen-
 5 ty days' previous notice being given in some one or
 6 more of the public newspapers in this State; and that
 7 the said books, when opened, shall be kept open for the
 8 space of thirty days at least, and as long thereafter as the
 9 commissioners first above named shall direct; and that all
 10 subscription of stock shall be in shares of one hundred dol-
 11 lars, the subscriber paying, at the same time of making
 12 subscription, five dollars on each share thus subscribed,
 13 to the person or persons authorized to receive such sub-
 14 scription; and, in case of failure to pay said sum, all
 15 such subscriptions shall be void and of no effect; and,
 16 upon closing the books, all such sums as shall have been
 17 thus received of subscribers, on the first cash instalment,
 18 shall be paid over to the general commissioners named
 19 in the third section of this act, by the persons receiving
 20 them; and for failure thereof, such person or persons
 21 shall be personally liable to said general commissioners
 22 before the organization of said company, and to the com-
 23 pany itself after its organization, to be recovered in the
 24 Superior Court of law within this State, in the county
 25 where such delinquent resides, or, if he reside in
 26 any other State, then in any court in such State having
 27 competent jurisdiction. The said general commission-
 28 ers shall have power to call on, and require, all persons
 29 empowered to receive subscriptions, at any time, and
 30 from time to time, as a majority of them may think pro-
 31 per, to make a return of the stock by them respectively
 32 received, and to make payments of all sums made by the
 33 subscribers; that all persons receiving subscriptions of
 34 stock shall pass a receipt to the subscriber or subscrib-

ers for the payment of the first instalment, as heretofore required to be paid ; and, upon their settlement with the general commissioners, as aforesaid, it shall be the duty of the said general commissioners, in like manner, to pass their receipt for all sums of money thus received, to the person from whom received, and such receipts shall be taken and held to be good and sufficient vouchers to the persons holding them. That subscriptions of stock thus received to an amount not exceeding

V. It shall be the duty of said general commissioners to direct and authorise the keeping open of books for the subscription of stock in the manner above described, until the sum of one million of dollars shall have been subscribed to the capital stock of said company ; and that as soon as the sum of one million of dollars shall have been subscribed, and the first instalment of five dollars per share on said sum shall have been received by the general commissioners, said company shall be regarded as formed ; and the said commissioners or a majority of them, shall sign and seal a duplicate declaration to that effect, with the names of the subscribers appended, and cause one of the said duplicates to be deposited in the office of the Secretary of State ; and thenceforth, from the closing of the books of subscription as aforesaid, the said subscribers to the stock shall form one body politic and corporate, in deed and in law, for the purposes aforesaid, by the name and style of the North Carolina and Tennessee Railroad Company.

VI. That, whenever the sum of one million of dollars shall be subscribed, in manner and form aforesaid, the subscribers, their executors, administrators and assigns, shall be, and they are hereby declared to be, incorporated into a company by the name and style of " the North Carolina and Tennessee Railroad Company ; and by that name shall be capable, in law and equity, of purchasing, holding, selling, leasing and conveying estates real, personal and mixed, and acquiring the same by gift or de-

10 vise, so far as shall be necessary for the purposes em-
 11 braced within the scope, object and intent of this char-
 12 ter, and no further; and shall have perpetual succession;
 13 and by their corporate name may sue and be sued, plead
 14 and be impleaded in any court of law and equity in the
 15 State of North Carolina; and may have and use a com-
 16 mon seal, which they may alter and renew at pleasure;
 17 and shall have and enjoy all other rights and immuni-
 18 ties which other corporate bodies may and of right do
 19 exercise; and may make all such by-laws, rules and
 20 regulations as are necessary for the government of the
 21 corporation, or effecting the object for which it is cre-
 22 ated, not inconsistent with the constitution and laws of
 23 the United States and of the State of North Carolina.

VII. That notice of process upon the principal agents of
 2 said company, or the president or any of the directors
 3 thereof, shall be deemed and taken to be due and lawful
 4 notice of service of process upon the company, so as to
 5 bring it before any Court within the State of North
 6 Carolina.

VIII. That as soon as the sum of one million of dollars
 2 shall have been subscribed in manner and form afore-
 3 said, it shall be the duty of the general commissioners,
 4 appointed under the third section of this act, to appoint
 5 a time for the stockholders to meet at _____, in
 6 _____ county, which they shall cause to be
 7 previously published, for the space of thirty days, in one
 8 or more newspapers, as they may deem proper; at which
 9 time and place, the said stockholders, in person or proxy,
 10 shall proceed to elect the directors of the company, and
 11 to enact all such regulations and by-laws as may be
 12 necessary for the government of the corporation and the
 13 transaction of its business. The persons elected direct-
 14 ors at this meeting, shall serve such a period, not ex-
 15 ceeding one year, as the stockholders may direct; and at
 16 this meeting, the stockholders shall fix on the day and
 17 place or places, when the subsequent election of direc-

18 tors shall be held ; and such elections shall henceforth
 19 be annually made ; but, if the day of the annual
 20 election should pass without any election of directors,
 21 the corporation shall not thereby be dissolved, but it
 22 shall be lawful on any other day to hold and make such
 23 election in such manner as may be prescribed by a by-
 24 law of the corporation.

IX. That the affairs of the company shall be managed
 and directed by a general board, to consist of twelve di-
 3 rectors, to be elected by the stockholders from among
 4 their number, at the first and subsequent general
 5 annual meetings, as prescribed in the eighth section of
 6 this act.

X. That the election of directors shall be by ballot, each
 2 stockholder having as many votes as he has shares in
 3 the stock of said company ; and the person having a
 4 majority of all the votes polled, shall be considered as
 5 duly elected.

XI. That the president of the company shall be elect-
 2 ed by the directors from among their own number, in
 3 such manner as the regulations of the company shall
 4 prescribe.

XII. That at the first general meeting of the stockhol-
 2 ders, to be called under section eighth of this act, a ma-
 3 jority of all the shares subscribed shall be represented
 4 before proceeding to business ; and if a sufficient num-
 5 ber do not appear on the day appointed, those who do
 6 attend shall have the power to adjourn from time to
 7 time, until a regular meeting shall be thus formed ;
 8 and at such meeting the stockholders may provide by a
 9 by-law, as to the number of stockholders and the
 10 amount of stock to be held by them, which shall consti-
 11 tute a quorum for transacting business at all subsequent
 12 regular or occasional meetings of stockholders and di-
 13 rectors.

XIII. That at all elections, and upon all votes taken in
 2 any general meeting of the stockholders, upon any by-
 3 law or any of the affairs of the company, each share of
 4 stock shall be entitled to one vote, and that any stock-
 5 holder in said company may vote by proxy ; and proxies
 6 may be verified in such manner as the stockholders by
 7 by-laws may prescribe.

XIV. That the general commissioners shall make their
 2 return of the shares of stock subscribed for, at the first
 3 general meeting of stockholders, and pay over to the
 4 directors elected at said meeting, or their authorized
 5 agent, all sums of money received from subscribers ;
 6 and for failure therefor shall be personally liable to said
 7 company, to be recovered at the suit of said company,
 8 in any of the Superior Courts of law in this State, within
 9 the county where such delinquent or delinquents may
 10 reside, and in like manner from said delinquent or de-
 11 linquents' executors or administrators, in case of his or
 12 their death.

XV. That the board of directors may fill all vacancies
 2 which may occur in it during the period for which they
 3 have been elected, and in the absence of the president
 4 may fill his place by electing a president *pro tem.* from
 5 among their number.

XVI. That all contracts or agreements, authenticated by
 2 the president and secretary of the board of directors,
 3 shall be binding on the company without a seal, or such
 4 a mode of authentication may be used as the company,
 5 by their by-laws, may adopt.

XVII. That the company shall have power and may
 2 proceed to construct, as speedily as possible, a railroad
 3 with one or more tracks, of the same width of the North
 4 Carolina railroad, to be used with steam power, which
 5 shall extend from the North Carolina railroad, at or
 6 near the town of Salisbury, in Rowan county, to a point

7 on the line dividing the States of North Carolina and
 8 Tennessee ; and said company may use any section of
 9 the railroad constructed by them, before the whole of
 10 said road shall be completed.

XVIII. That the said company shall have the exclusive
 2 right of conveyance or transportation of persons, goods,
 3 merchandise and produce over the said railroad, to be
 4 by them constructed, at such charges as may be fixed
 5 on by a majority of the directors.

XIX. That the said company may, when they see fit,
 2 farm out their right of transportation over said railroad,
 3 subject to the rules above mentioned ; and the said com-
 4 pany and every person who may have received from
 5 them the right of transportation of goods, wares and
 6 produce on the said railroad, shall be deemed and taken
 7 a common carrier, as respects all goods, wares, produce
 8 and merchandise entrusted to them for transportation.

XX. That the board of directors may call for the pay-
 2 ment of the sums subscribed as stock in said company
 3 in such instalments as the interest of said company may
 4 in their opinion, require ; the call for each payment shall
 5 be published in one or more newspapers in this State
 6 for the space of one month before the day of payment,
 7 and on failure of any stockholder to pay each instalment
 8 as thus required, the directors may sell at public auction,
 9 on a previous notice of ten days, for cash, all the stock
 10 subscribed for in said company, by such stockholder,
 11 and convey the same to the purchaser at said sale ; and
 12 if said sale of stock do not produce a sum sufficient to
 13 pay off the incidental expenses of the sale, and the entire
 14 amount owing by such stockholder to the company for
 15 such subscription of stock, then and in that case the
 16 whole of such balance shall be held and taken as due at
 17 once to the company, and may be recovered of such
 18 stockholder or his executors, administrators or assigns,
 9 at the suit of said company, either by summary motion

20 in the Court of Superior jurisdiction in the county where
 21 the delinquent resides, on a previous notice of ten days
 22 to said subscriber, or by action of assumpsit in any
 23 Court of competent jurisdiction, or by a warrant before
 24 a Justice of the Peace, when the sum does not exceed
 25 one hundred dollars; and in all cases of assignment of
 26 stock before the whole amount has been paid to the
 27 company, then for all sums due on such stock, both the
 28 original subscribers, and the first and all subsequent
 29 assignees shall be liable to the company, and the same
 30 may be recovered as above described.

XXI. That the debt of stockholders, due to the company
 2 for stock therein, either as original proprietor or as first
 3 or subsequent assignee, shall be considered as of equal
 4 dignity with judgments in the distribution of assets of a
 5 deceased stockholder, by his legal representatives.

XXII. That said company shall issue certificates of stock
 2 to its members; and said stock may be transferred in
 3 such manner and form as may be directed by the by-laws
 4 of the company.

XXIII. That the board of directors shall once in every
 2 year make a full report on the state of the company and
 3 its affairs to a general meeting of the stockholders, and
 4 oftener if required by a by-law; and shall have power
 5 to call a general meeting of the stockholders, when the
 6 board may deem it expedient; and the company may
 7 provide, in their by-laws, for occasional meetings being
 8 called, and prescribe the mode thereof.

XXIV. That the said company may purchase, have and
 2 hold, in fee, or for a term of years, any land, tenements,
 3 or hereditaments which may be necessary for the said
 4 road, or the appurtenances thereof, or for the erection
 5 of depositories, store houses, houses for the officers, ser-
 6 vants or agents of the company, or for workshops or
 7 foundries, to be used for the said company, or for pro-

8 curing stone or other materials necessary to the con-
 9 struction of the road, or for effecting transportation
 10 thereon, and for no other purposes whatever.

XXV. That the company shall have the right, when
 2 necessary, to conduct the said road across or along any
 3 public road or water course; *Provided*, That the said
 4 company shall not obstruct any public road, without
 5 constructing another equally as good and as convenient,
 6 nor without making a draw in any bridge of said road,
 7 which may cross a navigable stream, sufficient for the
 8 passage of vessels navigating such stream, which draw
 9 shall be opened by the company for the free passage of
 10 vessels navigating such stream.

XXVI. That when any lands or right of way may be
 2 required by said company for the purpose of construct-
 3 ing their road, and for the want of agreement as to the
 4 value thereof, or from any other cause, the same cannot
 5 be purchased from the owner or owners, the same may
 6 be taken at a valuation to be made by five commission-
 7 ers, or a majority of them, to be appointed by any Court
 8 of record having common law jurisdiction in the county
 9 where some part of the land or right of way is situated.
 10 In making the said valuation, the said commissioners
 11 shall take into consideration the loss or damage which
 12 may accrue to the owner or owners in consequence of
 13 the land or right of way being surrendered, and the
 14 benefit and advantage he, she or they may receive from
 15 the erection or establishment of the railroad or work,
 16 and shall state particularly the value and amount of
 17 each; and the excess of loss and damage, over and
 18 above the advantage and benefit, shall form the measure
 19 of valuation of the said land or right of way; *Provided*,
 20 Nevertheless, that if any person or persons over whose
 21 land the road may pass shall be dissatisfied with the
 22 valuation of said commissioners, then and in that case,
 23 the person or persons so dissatisfied may have an appeal
 24 to the Superior Court, in the county where the said

25 valuation has been made, or in either in which the land
 26 lies, when it may lie in more than one county, under
 27 the same rules, regulations and restrictions as in appeals
 28 from judgments of Justices of the Peace. The proceed-
 29 ings of the said commissioners, accompanied with a full
 30 description of said land or right of way, shall be returned,
 31 under the hands and seals of a majority of the commis-
 32 sioners to the Court from which the commission issued,
 33 there to remain a matter of record. And the lands or
 34 right of way so valued by the said commissioners, shall
 35 vest in said company so long as the same shall be used
 36 for the purposes of said railroad, so soon as the valua-
 37 tion may be paid, or when refused, may have been ten-
 38 dered; *Provided*, That on application for the appoint-
 39 ment of commissioners under this section, it shall be
 40 made to appear to the satisfaction of the Court, that at
 41 least ten days previous notice has been given by the
 42 applicant to the owner or owners of land so proposed to
 43 be condemned, or if the owner or owners be infants or
 44 *non compos mentis*, then to the guardian of such owner
 45 or owners, if such guardian can be found within the
 46 county, or if he cannot be so found, then such appoint-
 47 ment shall not be made unless notice of the application
 48 shall have been published at least one month next pre-
 49 ceding, in some newspaper printed as convenient as may
 50 be to the Court House of the county, and shall have
 51 been posted at the door of the Court House, on the first
 52 day at least of the term of said Court, to which the ap-
 53 plication is made; *Provided further*, That the valua-
 54 tion provided for in this section shall be made on oath
 55 by the commissioners aforesaid, which oath any Justice
 56 of the Peace or Clerk of the Court of the county in
 57 which the land or a part of it lies, is hereby authorized
 58 to administer; *Provided further*, That the right of con-
 59 demnation herein granted shall not authorise the said
 60 company to invade the dwelling house, yard, garden or
 61 burial ground of an individual without his consent.

XXVII. That the right of said company to condemn
 2 lands in the manner described in the 26th section of this
 3 act, shall extend to the condemning one hundred feet
 4 on each side of the main track of the road, measuring
 5 from the centre of the same, unless in case of deep cuts
 6 and filling, when the said company shall have power to
 7 condemn as much in addition thereto, as may be neces-
 8 sary for the purpose of constructing said road ; and the
 9 company shall also have power to condemn any ap-
 10 propriate lands in like manner, for the constructing and
 11 building of depots, shops, warehouses, buildings for ser-
 12 vants, agents and persons employed on the road, not
 13 exceeding two acres in any one lot or station.

XXVIII. That in the absence of any contract or con-
 2 tracts with said company, in relation to lands through
 3 which the said road or its branches may pass, signed by
 4 the owner thereof or by his agent, or any claimant or
 5 person in possession thereof, which may be confirmed
 6 by the owner thereof, it shall be presumed that the land
 7 upon which the said road or any of its branches may be
 8 constructed, together with a space of one hundred feet
 9 on each side of the centre of the said road, has been
 10 granted to the said company, by the owners thereof ;
 11 and the said company shall have good right and title
 12 thereto, and shall hold and enjoy the same as long as
 13 the same shall be used for the purposes of said road and
 14 no longer, unless the person or persons owning the said
 15 land at the time that part of the said road which may
 16 be on the said land, was finished ; or those claiming
 17 under him, her or them, shall apply for an assessment
 18 of the value of said lands, as hereinbefore directed,
 19 within two years next after that part of the said road
 20 was finished ; and in case the said owner or owners, or
 21 those claiming under him, her or them, shall not apply
 22 within two years next after the said part was finished,
 23 he, she or they shall be forever barred from recovering
 24 said land, or having any assessment or compensation

25 therefor: *Provided*, That nothing herein contained shall
 26 affect the rights of *feme coverts* or infants until two
 27 years after the removal of their respective disabilities.

XXIX. That all lands not heretofore granted to any
 2 person, nor appropriated by law to the use of the State,
 3 within one hundred feet of the centre of said road,
 4 which may be constructed by the said company, shall
 5 vest in the company as soon as the line of the road is
 6 definitely laid out through it, and any grant of land
 7 thereafter shall be void.

XXX. That if any person or persons shall intrude upon
 2 the said railroad by any manner of use thereof, or of
 3 the rights and privileges connected therewith, without
 4 permission or contrary to the will of the said company,
 5 he, she or they may be indicted for misdemeanor, and
 6 upon conviction thereof, fined and imprisoned by any
 7 Court of competent jurisdiction in this State,

XXXI. That if any person shall wilfully and malicious-
 2 ly destroy, or in any manner hurt or damage; or ob-
 3 struct, or shall wilfully and maliciously cause or aid, or
 4 assist or counsel, and advise any other person or per-
 5 sons to destroy, or in any manner to hurt, damage or
 6 destroy, or injure or obstruct the said railroad, or any
 7 bridge or vehicle used for, or in transportation thereon,
 8 any water tank, warehouse, or any other property of
 9 said company, such person or persons so offending,
 10 shall be liable to be indicted therefor, and on convic-
 11 tion, shall be imprisoned not more than six, nor less
 12 than one month, and pay a fine not exceeding five
 13 hundred dollars, nor less than twenty dollars, at the dis-
 14 cretion of the Court before which said conviction shall
 15 take place; and shall be further liable to pay all ex-
 16 penses of repairing the same; and it shall not be compe-
 17 tent for any person, so offending against the provisions
 18 of this clause, to defend himself by pleading or giving in
 19 evidence, that he was the owner, agent or servant of

20 the land where such destruction, hurt, damage, injury,
 21 or obstruction was done, at the time the same was done
 22 or caused to be done.

XXXII. That every obstruction to the safe and free
 2 passage of vehicles on the said road or its branches,
 3 shall be deemed a public nuisance, and may be abated as
 4 such by any officer, agent or servant of said company;
 5 and the person causing such obstruction may be in-
 6 dicted and punished for erecting a public nuisance.

XXXIII. That the said company shall have the right
 2 to take at the store houses they may establish on, or
 3 annex to their railroad or the branches thereof, all
 4 goods, wares, merchandise and produce intended for
 5 transportetion, prescribe the rules of priority and charge,
 6 and receive such just and reasonable compensation for
 7 storage, as they by rules may establish (which they
 8 shall cause to be published) or as may be fixed by
 9 agreement with the owner, which may be distinct from
 10 the rules of transportation: *Provided*, That the sai'
 11 company shall not charge or receive storage on good
 12 wares, merchandise, or produce which may be delivered
 13 to them at their regular depositories for immediate
 14 transportation, and which the company may have power
 15 to transport immediately.

XXXIV. That the profits of the company, or so much
 2 thereof as the general board may deem advisable, shall,
 3 when the affairs of the company will permit, be semi-
 4 annually divided among the stockholders in proportion
 5 to the stock they may own.

XXXV. That, whenever it shall appear to the board of
 2 internal improvements of this State, by a certificate un-
 3 der the seal of said company, signed by their treasurer
 4 and countersigned by their president, that one-third has
 5 been subscribed for and taken, and that at least five
 6 hundred thousand dollars of said stock has been actu-

7 ally paid into the hands of said treasurer of said company,
 8 the said board of internal improvements shall be, and
 9 they are hereby authorized and required to subscribe.
 10 on behalf of the State, for stock in said company to the
 11 amount of two millions of dollars to the capital stock
 12 of said company, and the subscription shall be paid in
 13 the following manner, namely : The one-fourth part as
 14 soon as the said company shall commence work, and
 15 one-fourth thereof every six months thereafter, until the
 16 whole subscription in behalf of the State shall be paid ;
 17 *Provided*, the treasurer and president of said company
 18 shall, before they receive the aforesaid instalments, sat-
 19 isfactorily assure the board of internal improvements,
 20 by the certificates, under the seal of said company, that
 21 an amount of private subscription has been paid in equal
 22 proportion to the stock subscribed by the State.

XXXVI. That if, in case the present Legislature shall
 2 not provide the necessary and ample means to pay the
 3 aforesaid instalments on the stock subscribed for on be-
 4 half of the State, as provided for in the xxxvith section
 5 of this act, and in that event, the board of internal im-
 6 provements aforesaid, shall, and they are hereby autho-
 7 rised and empowered to borrow, on the credit of the
 8 State, a sum not exceeding two millions of dollars, as
 9 the same may be needed by the requirements of this act.

XXXVII. That, if, in case it shall become necessary to
 2 borrow the money by this act authorized, the public
 3 treasurer shall issue the necessary certificates, signed by
 4 himself and countersigned by the comptroller, in sums
 5 not less than one thousand dollars each, pledging the
 6 State for the payment of the sum therein mentioned,
 7 with interest thereon at the rate of interest not exceed-
 8 ing six per cent. per annum, payable semi-annually at
 9 such times and places as the treasurer may appoint—
 10 the principal of which certificates shall be redeemable
 11 at the end of thirty years from the time the same are
 12 issued ; but no greater amount of such certificates shal

13 be issued at any one time than may be sufficient to meet
 14 the instalment required to be paid by the State at that
 15 time.

XXXVIII. That the comptroller shall register said certifi-
 2 cate at large in a book to be by him kept for that pur-
 3 pose, at the time he countersigns the same ; and when
 4 he delivers the same to the public Treasurer, he shall
 5 charge him in his books with the amount thereof, and
 6 also with all sums, if any, as the public Treasurer may
 7 obtain by way of premium on the sale of said certifi-
 8 cates, an account of which the public Treasurer shall
 9 render to the Comptroller so soon as negotiations from
 10 time to time for the sale of said certificates are closed.

XXXIX. That if it shall become necessary to issue the
 2 certificates aforesaid, the public Treasurer shall adver-
 3 tise in one or more newspapers, as he may think best,
 4 and invite sealed proposals for such amount of the afore-
 5 said sum of two millions of dollars as may be wanted
 6 at any one time ; and it shall be his duty to accept
 7 those terms which may be most advantageous to the
 8 State ; *Provided*, That in no event shall any of the
 9 said certificates be sold for less than their par value ;
 10 and any premium which may be obtained on the sale
 11 of said certificates shall be placed in the public Treas-
 12 ury, and used as other public funds in the payment of
 13 interest on the debt hereby created.

XL. That, as security for the redemption of said certifi-
 2 cates of debt, the public faith of the State of North Ca-
 3 rolina is hereby pledged to the holders thereof, and in
 4 addition thereto, all the stock held by the State in "the
 5 North Carolina and Tennessee Railroad Company,"
 6 hereby created, shall be, and the same is hereby, pledged
 7 for that purpose ; and any dividends of profit which may,
 8 from time to time, be applied to the payment of the in-
 9 terest accruing on said certificates ; but until such divi-
 10 dend of profit may be declared, it shall be the duty of

11 the Treasurer, and he is hereby authorized and directed
 12 to pay all such interest, as the same may accrue, out of
 13 any moneys in the treasury not otherwise appropriated.

XLI. That the certificates of debt hereby authorized to be
 3 issued, shall be transferable by the holders thereof, their
 4 agents or attorneys, properly constituted, in a book to be
 5 kept by the Public Treasurer for that purpose; and in
 6 every instance when a transfer is made, the outstanding
 7 certificate shall be surrendered and given up to the Public
 8 Treasurer, and by him cancelled, and a new one for the
 9 amount issued in its place, to the person to whom the same
 10 is transferred.

XLII. That the State shall appoint the number of Directors
 2 in said company in proportion to the stock subscribed,
 3 who shall be appointed by the Governor, by and with the
 4 advice and consent of his council, and removed in like
 5 manner.

XLIII. That the following officers and servants and per-
 2 sons in the actual employment of the said company, be.
 3 and they are hereby exempted from the performance of
 4 jury and ordinary military duty: The president and
 4 treasurer of the board of directors, and the chief and as-
 5 sistant engineers, the secretaries and accountants of the
 6 company, keepers of the depositories, guard stationed on
 7 the road to protect it from injury, and such persons as
 8 may be working the locomotive engines and travelling
 9 with cars for the purpose of attending to the transport-
 10 ing of produce, goods and passengers on the road.

XLIV. *Be it further enacted,* That all the works hereby
 2 required of the North Carolina and Tennessee Railroad
 3 Company shall be executed with due diligence; and if
 4 they be not commenced within six years after the ratifi-
 5 cation of this act, and finished within ten years after the
 period of commencement, then this charter shall be for-
 eited.

[HOUSE DOCUMENT, No. 22.]

Introduced by Mr. S. F. PHILLIPS. Read the first time and passed. Ordered to lie on the table and be printed.

A BILL

To give Courts of Law jurisdiction in cases of sales of land for the purposes of partition.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That all cases mentioned in the seventh, eighth, ninth, tenth, and eleventh sections of the eighty-fifth chapter of the Revised Statutes of North Carolina, shall be subject to the jurisdiction of the Courts of Pleas and Quarter Sessions, and the Superior Courts of Law, in the same manner, and to the same extent, that they now are to that of Courts of Equity.

II. The sales ordered, in pursuance of such petitions, shall be made by the Sheriff of the county in which the petition is filed; and he shall, for such service, be allowed a sum not exceeding two and a half *per centum* upon the sum realized thereby.

III The better to effectuate the purposes of this enact
 2 ment, the Courts, in which such petitions are filed, are
 3 hereby authorised to take notice of, and administer, the
 4 various equities affecting the parties to such petitions,
 5 and the sureties to the bonds for the purchase money,
 6 which are now recognised and enforced in the Courts
 7 of Equity.

IV. This act shall be in force from and after its ratifi-
 2 cation.

[HOUSE DOCUMENT, No. 23.]

Introduced by Mr. S. F. PHILLIPS. Read the first time and passed. Ordered to be printed, and referred to the Committee on the Judiciary.

A BILL

To give Courts of Law jurisdiction over sales of real and personal property belonging to wards.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the jurisdiction over sales of the real and personal estate of infants, conferred upon Courts of Equity by the twenty-sixth section of the fifty-fourth chapter of the Revised Statutes of North Carolina, shall hereafter be exercised in Courts of Law also; which, in such cases, shall be governed by the same rules that are mentioned in that and the succeeding section, as now regulating the Courts of Equity with regard to such sales.

II. Such sales shall be made by the Sheriff of the county in which the petition is filed; and for the same he shall be allowed a sum not exceeding two and a half *per centum* upon the amount realised from the sale.

III. The better to effectuate the purposes of this enactment, the Courts in which such petitions are heard, are hereby authorised to take notice of, and administer the various equities affecting the parties to such petitions, and the sureties to the bonds for the purchase money; which are now exercised and enforced in Courts of Equity.

IV. This act shall be in force from and after its ratification.

[Introduced by Mr. S. P. HILL.—Read first time and passed, and referred to the Committee on the Judiciary, and ordered to be printed.]

A BILL

To incorporate the Bank of Yanceyville:

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by the autho-*
3 *rity of the same, That, a Bank shall be established in*
4 *the town of Yanceyville, the capital stock of which*
5 *shall not exceed two hundred thousand dollars, divided*
6 *into shares, one hundred dollars each, and for the pur-*
7 *pose of receiving subscriptions for said stock, books*
8 *shall be opened on the 17th day of February, 1853, or*
9 *within twenty days after the ratification hereof, and*
10 *remain open for the space of sixty days at Yanceyville,*
11 *under the superintendence of N. M. Roan, Allen Gunn,*
12 *Thomas D. Johnston, S. P. Hill, George Williamson,*
13 *Wm. Long, or any three of them; at Milton, under the*
14 *superintendence of Sam'l Watkins, M. McGehee, Nich-*
15 *olas M. Lewis, and N. J. Palmer, or any three of them;*
16 *at Currie's Store, under the superintendence of James*
17 *Currie, Thomas Covington, and F. A. Wiley; at Leas-*
18 *burg, under the superintendence of Solomon Lea, Nich-*
19 *olas Thompson, and Jas. S. Thompson; at Lawson's*
20 *Store, under the superintendence of R. J. Lawson, W.*
21 *P. Watt, Wm. D. Bethell, and Joseph D. Neal, or any*
22 *three of them; at Wentworth, under the superinten-*
23 *dence of Thos. B. Wheeler, Jc., S. Dillard, and Wm.*
24 *Ellington; and at the same time at such other places,*
25 *and under the superintendence of such other persons, as*
26 *may be designated by the commissioners appointed to*
27 *receive subscriptions at Yanceyville.*

II. *Be it further enacted*, That one-fifth of such shares shall be paid in gold or silver, or their equivalent, to the commissioners above named, or those appointed by them, at the time of subscribing; that another fifth shall be paid within sixty days thereafter; that another fifth shall be paid within one hundred and twenty days thereafter; that another fifth shall be paid within three months after the time appointed for paying the third instalment, and the remaining fifth shall be paid within three months after the time of paying the fourth instalment, and if any subscriber shall fail to pay any instalment at the time stipulated, he shall pay interest thereon, at the rates of six per cent. per annum, and his stock shall be forfeited, and may be sold by the bank, and the proceeds applied to the payment of the aforesaid deficient instalment, and he shall be held responsible for the same at the option of the bank, and the remainder, if any, of such sale, to be paid over to the subscriber; *Provided*, That, after the bank shall have been organized, as hereinafter provided, the remaining unpaid instalments shall be paid to their directors, or their agents, and it shall be lawful for any subscriber to pay the whole of his subscription, or any greater part than is hereby required, before the time limited for the same, and every subscriber so paying in advance, shall have a discount at the rate of six per cent. per annum, on each advance, computing the same, from the time when payment is made, to the time when it is required to be made.

III. *Be it further enacted*, That, when six hundred shares are subscribed, and the sum of fifteen thousand dollars actually paid to the commissioners aforesaid, the subscribers to the said bank, their successors and assignees, shall be, and are hereby created a body politic, in law and in fact, by the name and style of the "Bank of Yanceyville," and shall so continue until the first day of January, eighteen hundred and eighty-two, and

9 by the name and style aforesaid, they shall be able and
 10 capable in law, to have, purchase, receive, possess, en-
 11 joy, and retain to themselves and successors, land, tene-
 12 ments, rents, hereditaments, goods, chattles and effects,
 13 and the same to grant, devise, alien and dispose of ; to
 14 sue and be sued ; plead and be impleaded ; answer and
 15 be answered ; defend and be defended unto, in Courts
 16 of Record, or in any place whatsoever ; and also to
 17 make, have and use a common seal, and the same to
 18 break, alter or renew, at their pleasure ; and also to
 19 ordain, establish, and put into execution, such by-laws,
 20 ordinances and regulations as shall seem necessary and
 21 convenient for the government of said corporation,
 22 and for the making whereof, general meetings of the
 23 stockholders may be called in the manner hereinafter
 24 specified ; and generally to do and execute all acts, mat-
 25 ters and things, which a corporation and body politic,
 26 in law, may or can lawfully execute ; and be subject to
 27 the rules, regulations, restrictions and provisions herein-
 28 after prescribed and declared.

IV. *Be it further enacted*, That if it shall happen, when
 2 the books shall be opened as aforesaid, that a greater
 3 sum than two hundred thousand dollars shall be sub-
 4 scribed by individuals, or by bodies corporate, it shall
 5 be lawful for the commissioners to reduce such sub-
 6 scription, according to a scale to be by them establish-
 7 ed for that purpose, to the aforesaid amount of two
 8 hundred thousand dollars : *Provided*, That no sub-
 9 scription of two shares or under shall be scaled until
 10 all larger subscriptions shall first be reduced to an
 11 equality with them ; and if six hundred shares should
 12 not be subscribed within the sixty days aforesaid, the
 13 commissioners may keep open the books for subscrip-
 14 tions, twelve months longer, unless the sum be sooner
 15 subscribed. and the directors, elected as hereinafter pre-
 16 scribed, shall be allowed to keep open the subscription

17 books, until the whole of the stock shall be taken,
 18 and close the same previous thereto, at their discretion.
 19 The commissioners appointed to receive subscriptions
 20 at Milton, Leasburg and Currie's store and Wentworth,
 21 in the county of Rockingham, and those who shall be
 22 appointed as herein prescribed at other places, shall
 23 pay over to the commissioners herein appointed to re-
 24 ceive subscriptions at Yanceyville, all monies paid to
 25 them, on stock subscription, immediately after receiv-
 26 ing the same.

V. *Be it further enacted*, That as soon as three hun-
 2 dred shares shall be taken in the stock of said bank,
 3 and fifteen thousand dollars paid to the commissioners,
 4 who keep the books, notice shall be given in the North
 5 Carolina Democrat, or some other public manner; and
 6 a meeting of the subscribers, to be held ten days at least
 7 after the date of the notice, shall be called. If, at this
 8 meeting, those or their agents, who have a majority of
 9 votes, according to the rates hereinafter described, be
 10 present, (if not another meeting shall be called,) they
 11 shall proceed to the election of seven directors, who
 12 shall take charge of the books and money in the hands
 13 of the commissioners, and immediately pursue the usual
 14 means to put the bank in operation. The said direc-
 15 tors shall remain in office until the time which shall be
 16 prescribed in the by-laws of the said corporation, for
 17 the annual meeting of the stockholders, or until their
 18 successors shall be appointed, and at the time which
 19 shall be prescribed as aforesaid, in each year, or at any
 20 time thereafter, meetings of the stockholders shall be
 21 held in the town of Yanceyville, for the purpose of
 22 electing directors, inquiring into the affairs of the insti-
 23 tution, and making such regulations as may be deemed
 24 fit and necessary.

VI. *Be it further enacted*, That the following rules, regu-
 2 lations and provisions shall form and be the fundament-

3 al articles of the constitution of the corporation: A
 4 meeting of the stockholders cannot be had, unless those
 5 who have a majority of the whole number of votes be
 6 present ; and every act shall require the sanction of a
 7 majority of the votes which may be present. Every
 8 stockholder holding one share, and not more than two,
 9 shall be entitled to one vote ; for every two shares above
 10 two, and not exceeding ten, one vote ; for every three
 11 shares above ten, and not exceeding forty, one vote ;
 12 and for every six shares above forty, and not exceeding
 13 one hundred, one vote ; for every ten shares above one
 14 hundred, and not exceeding two hundred, one vote ; for
 15 every twenty shares above two hundred, one vote.
 16 After the first meeting, no share or shares shall confer
 17 a right of voting, which shall not have been holden
 18 three calendar months previous to the day of voting.
 19 Stockholders may vote at general meetings and elec-
 20 tions by proxy, the proxy himself being a stockholder.
 21 None but a stockholder, who is a citizen of the State,
 22 shall be eligible as a director ; and the stockholders
 23 shall appoint annually seven directors, to manage the
 24 bank ; and when appointed, they shall choose one of
 25 the number to be President of the bank, and shall man-
 26 age the institution as shall seem best, unless otherwise
 27 directed by the stockholders. Not less than three direc-
 28 tors, of whom the President shall always be one, shall
 29 constitute a board for the transaction of business, ex-
 30 cept in case of absence or sickness of the President,
 31 when he may by writing nominate any other director to
 32 supply his place. If a vacancy in the directory shall
 33 occur by death, resignation, or otherwise, the remaining
 34 directors shall fill such vacancy until the succeeding
 35 annual meeting of the stockholders. A number of
 36 stockholders, not less than ten, who, together shall be
 37 owners of three hundred shares or upwards, shall have
 38 power at any time to call a general meeting of the
 39 stockholders for purposes relative to the institution, giv-

ing at least twenty days notice in a public gazette, and specifying the object or objects of such meeting. The directors shall annually elect such officers as shall be deemed necessary to perform the business of the bank, and may remove them or either of them at pleasure. These officers shall be required to give bonds, with two or more securities, in sums not less than ten thousand dollars, with a condition for good behavior and faithful performance of duty. They shall be allowed by the directors such compensation for their services, as shall be reasonable, but compensation to the president and directors shall be granted at the pleasure of the stockholders. The stock of said corporation shall be assignable and transferable, according to the rules, which shall be instituted in that behalf, by the laws and ordinances of the same.

VII. *Be it further enacted*, That the said corporation shall neither directly nor indirectly, trade in anything, except bills of exchange; promissory notes and bonds expressing on the face of them, to be negotiable and payable at said bank; gold or silver bullion, or in the sale of goods really and truly pledged for money lent and not redeemed in due time, or in goods which shall be the produce of its lands, or in mint certificates, and the public debts of the United States and of this State: *Provided*, The investment in such stock shall not exceed one-half of the capital stock of this bank. The said corporation shall purchase and hold only such lands, tenements, rents and hereditaments, as shall be required for the convenient transaction of its business, or shall have been *bona fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sale upon judgments, which shall have been obtained for such debts.

VIII. *Be it further enacted*, That, the said corporation shall not take more than six per cent. per annum, for or

3 upon its loans or discounts, which interest may be re-
 4 ceived in advance, at the time of discount, and the said
 5 bank shall at no time have in circulation, more than
 6 twice the amount of its capital actually paid in.

IX. *Be it further enacted*, That, the bills obligations,
 2 [obligatory,] and of credit under the seal of said corpora-
 3 tion, which shall be made, to any person or persons,
 4 shall be assignable by endorsement thereon, under the
 5 hand or hands, of such person or persons, and of his,
 6 her, or their assignee or assignees, and so as absolutely
 7 to transfer and vest the property therein in each and
 8 every assignee or assignees, successively, and to enable
 9 such assignee or assignees to bring and maintain an
 10 action thereupon, in his, her, or their name or names,
 11 and bills or notes which may be issued by order of the
 12 said corporation, signed by the president, and counter-
 13 signed by the cashier, promising the payment of money
 14 to any person or persons, his, her, or their order, or to
 15 bearer, though not under the seal of said corporation,
 16 shall be binding and obligatory on the same, in the like
 17 manner, and with the like force and effect, as upon any
 18 private person or persons; that is to say, those which
 19 shall be payable to any person or persons, his, her, or
 20 their order, shall be assignable by endorsement in like
 21 manner, and with like effect, as foreign bills of exchange
 22 now are, and those which are payable to bearer, shall be
 23 negotiable and assignable by delivery only.

X. *Be it further enacted*, That no note shall be issued
 2 by said bank, under the denomination of three dollars,
 3 and that if any person or persons holding any note or
 4 notes of said bank shall present the same for payment,
 5 and payment shall be refused, the said note or notes
 6 shall draw interest at the rate of twelve per cent. per
 7 annum from the time of said demand, and the said bank
 8 shall pay the same, any law to the contrary notwith-

9 standing : and the holder of said note or notes of said
 10 bank, not paid on demand, may bring an action of as-
 11 sumpsit against one or all of the directors who may
 12 have consented to issue more than twice the capital
 13 stock paid in, in case the bank be unable to pay the
 14 amount : *Provided always*, That if any note or notes
 15 of the said bank shall be presented for payment by or
 16 for any bank or branch, or agency of any bank, either
 17 directly or indirectly, it shall be lawful to pay the same
 18 or any part thereof, with the note or notes of the bank,
 19 by or for which the demand shall have been made,
 20 whether made at the instance of the principal bank, its
 21 branches, or agency, without regard to the place where
 22 the same may have been issued, or may be payable,
 23 and any person or persons who may present the note
 24 or notes of the said bank, for payment, shall, if required,
 25 state, on oath, before a justice of the peace, whether
 26 the demand was made for any bank, or branch, or
 27 agency, of any bank, either directly or indirectly, or in
 28 case of refusing, shall not be entitled to recover any
 29 interest whatever, on any note of said bank, for which
 30 payment may be refused.

XI. *Be it further enacted*, That the directors of said
 2 bank may declare semi-annual dividends of the profits
 3 thereof: *Provided*, That no dividend shall be declared
 4 until the whole amount of stock subscribed shall be paid
 5 in gold or silver, or their equivalent; and if at any time
 6 more than the real profits are divided, the directors
 7 thereto assenting shall be responsible, in their private
 8 capacities, to creditors who have claims against the
 9 said institution.

XII. *Be it further enacted*, That, in case of any insol-
 3 vency of the bank hereby created, or ultimate inability
 4 to pay, the individual stockholders shall be liable to cre-
 5 ditors, in sums double the amount of stock by them re-
 5 spectively held in said corporation.

XIII. *Be it further enacted,* That the officer at the head
 2 of the treasury department of the State shall be furnish-
 3 ed, once in six months, with a statement of the amount
 4 of the capital stock of said corporation, and the debts
 5 due the same; of the moneys deposited therein; of the
 6 notes in circulation; of the cash in hand; and shall have
 7 a right to inspect such general accounts, in the books of
 8 the bank, as shall relate to said statement: *Provided,*
 9 That this shall not be construed to a right of inspecting
 10 the accounts of any private individual with the bank,
 11 except the directors; and it shall be the duty of the pre-
 12 sident of the bank, in the first week of December, in
 13 each and every year, to transmit to the General Assem-
 14 bly a full statement of the condition of the bank, exhibi-
 15 ting the amount of capital notes in circulation; debts
 16 due to other banks, and to what banks; deposits; and
 17 all other particulars necessary to explain the debit side
 18 of the account: also the specie on hand; notes on other
 19 banks, and what banks; bills of exchange; debts or
 20 bonds and notes discounted; specifying, in one item,
 21 the amount due from stockholders, and in another, the
 22 amount due from directors; not, however, using any
 23 person's name, in either case; and the real estate.

XIV. *Be it further enacted,* That, if any person shall
 2 falsely make, forge or counterfeit, or cause or procure
 3 to be falsely made, forged or counterfeited, or willingly
 4 aid or assist in falsely making, forging or counterfeiting
 5 any bill or note in imitation of, or purporting to be, a
 6 bill or note issued by order of the president and direc-
 7 tors of the bank of Yanceyville; or any order or check
 8 upon said bank or corporation; or the cashier thereof;
 9 or shall falsely alter, or cause, or procure to be falsely
 10 altered, or willingly aid or assist in falsely altering any
 11 bill or note, issued by the order of the said corporation,
 12 or any order or check on said bank, or the cashier
 thereof; or shall pass, or receive with intent to pass,

13 utter or publish as true, any false, forged, or counter-
 14 feited check or order, upon the said bank, or the cashier
 15 thereof, knowing the same to be falsely forged or coun-
 16 feited, or shall pass or receive, with intent to pass off or
 17 publish, as true, any falsely altered check or order, on
 19 said bank, or the cashier thereof, or falsely altered bill
 20 or note, issued by order of said bank, knowing the same
 21 to be falsely altered, with intent to defraud the said cor-
 22 poration, or any other body politic, or person or persons,
 23 every such person shall be deemed guilty of felony, and
 24 being thereof convicted, by due course of law, shall be
 25 imprisoned, not exceeding ten years, and fined not ex-
 26 ceeding five thousand dollars.

XV. *Be it further enacted,* That the President or
 2 cashier of the said bank shall annually pay into the
 3 treasury of the State, twelve and a half cents on each
 4 share of said capital stock which may have been sub-
 5 scribed for and paid in, and the first payment of said
 6 tax, twelve months after said bank shall have com-
 7 menced operations.

XVI. *Be it further enacted,* That if any president,
 2 cashier, clerk or other officer of the aforesaid bank,
 3 shall knowingly, willingly, and with intent to deceive,
 4 make, or cause to be made or connive at making any
 5 false return, statement or exhibit of the condition of the
 6 bank, either to the treasurer of the State, to the Legis-
 7 lature or the Board of Directors of the bank, or to the
 8 stockholders or to any other person or persons, that
 8 may be authorized by the Legislature, president, direc-
 9 tor, cashier, clerk or other officer, and all persons aid-
 10 ing or abetting in such deception or false return, shall
 11 be liable to be indicted for a misdemeanor in the Su-
 12 perior Courts, and upon conviction, shall be fined at the
 13 discretion of the Court, and imprisoned not exceeding
 14 one year.

XVII. *Be it further enacted*, That if a director or any
 2 other officer, agent or servant of said corporation shall
 3 embezzle any of the funds belonging to said bank, with
 4 the intent to defraud said corporation, or make false
 5 entries upon the books of said bank, with intent to de-
 6 fraud said corporation or any other person whatsoever,
 7 said officer, agent or servant shall be held and deemed
 8 guilty of felony, and upon conviction thereof, by due
 9 course of law, shall be punished by fine, at the discre-
 10 tion of the Court, and imprisoned not exceeding five
 11 years.

XVIII. *Be it further enacted*, That whenever the Le-
 2 gislature may be of the opinion that the charter of the
 4 corporation, hereby granted, shall have been violated,
 5 it may be lawful, by joint resolution, to direct the At-
 6 torney General, with such assistant counsel, as the
 7 Governor or Legislature may think proper to engage,
 8 to issue a writ of *scire facias*, returnable before the
 9 Judges of the Supreme Court, calling upon said
 10 corporation to show cause why the charter hereby
 11 granted, shall not be forfeited, subject to the same pro-
 12 ceedings as are now prescribed by law in cases of other
 13 corporations.

XIX. *Be it further enacted*, That the cashier shall keep
 2 a book to contain the proceedings of the board of direc-
 3 tors, the names of those present, the day and date of
 4 each meeting, and shall record the yeas and nays on
 5 any question, when asked for by any director. This
 6 book shall be evidence in Courts of Justice, and on en-
 7 tering on the discharge of his duties, the cashier shall
 8 take the following oath, before some Justice of the
 9 Peace, by whom it shall be returned to the office of the
 10 clerk of the County Court: "I, A. B., do solemnly
 11 swear, to keep a just and true record, without alterations

12 or erasures, of the transactions of the board of directors,
13 in a book kept by me for that purpose."

XX. *Be it further enacted*, That this act shall be in force
2 from, and after its ratification.

A BILL

TO INCORPORATE

THE

WESTERN NORTH CAROLINA

RAILROAD COMPANY



RALEIGH:

SEATON GALES, PRINTER TO THE LEGISLATURE.

1852

[Introduced by Mr. WEBB.—Read first time and passed,
and referred to the Committee on Internal Improvements,
and ordered to be printed.]

A BILL

To incorporate the Western North Carolina Rail Road Company.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same.* That for the purpose of effecting a Rail Road Communicaton between the Union and Spartanburg Railroad, at Spartanburg, Court House, South Carolina, and the town of Knoxville, Tennessee, the formation of a Corporate Company, with a capital stock of one Million of dollars, is authorized, to be called the Western North Carolina Rail Road Company, and when formed in compliance with the conditions, hereinafter prescribed, to have a corporate existence as a body politic in perpetuity.

II. *Be it further enacted,* That the said company be and the same is hereby authorized to construct a Rail Road, beginning at Spartanburg Court House, South Carolina running thence through the County of Rutherford, near Rutherfordton, North Carolina, and by the most practical route crossing the Blue Ridge in the Reedy Patch Gap to the line of the State of Tennessee. Said line to be intersected at such a point as will form a junction with a Rail Road from Knoxville to the dividing line between the States of North Carolina and Tennessee.

III. *Be it further enacted*, That for the purpose of creating the Capital Stock of said Company, the following be and the same are hereby appointed Commissioners, viz :

IV. *Be it further enacted*, That whenever the sum of three hundred thousand dollars shall be subscribed in manner and form aforesaid, in shares of one hundred dollars each, the subscribers, their executors, administrators or assigns shall be and they are hereby declared incorporated into a Company, by the name and style of the Western North Carolina Rail Road Company ; and by that name shall be capable in law and Equity, of purchasing, holding, selling, leasing and conveying estates, real, personal, and mixed, and of acquiring the same by gift or devise, so far as shall be necessary for the purposes embraced within the scope, object and interest of their character and no further, and shall have perpetual succession, and by their corporate name may sue and be sued, plead and be impleaded, in any Court of law and Equity in the State of North Carolina ; and may have and use a common Seal, which they may alter and renew at pleasure, and shall have and enjoy all other rights and immunities which other corporate bodies, may, and of right do, exercise ; and make all such by-laws, rules and regulations, as are necessary for the government of the corporation or effecting the object for which it was created, not inconsistent with the Constitution and laws of the State.

V. *Be it further enacted*, That it shall be the duty of the
 2 Commissioners or a majority of them appointed under
 3 the third Section of this act, as soon as the sum of three
 4 hundred thousand dollars shall have been subscribed in
 5 manner aforesaid, in shares of one hundred dollars each
 6 to appoint a time for the stock holders to meet at Ash-
 7 ville in the County of Buncombe, after having given at
 8 least thirty days notice; at which time and place a ma-
 9 jority of the Stockholders, being represented in person or
 10 by proxy, shall proceed to elect nine Directors, out of
 11 the number of Stockholders, each of whom shall possess
 12 at least five shares of the stock, and the said Stockhol-
 13 ders shall then proceed to elect a President and Treas-
 14 urer, out of the number of Stockholders; and the said
 15 directors shall have power to perform all other duties,
 16 necessary for the government of the corporation and the
 17 transaction of its business. The persons elected direc-
 18 tors at the meeting aforesaid, shall serve such period,
 19 not exceeding one year, as the Stockholders may direct,
 20 and at that meeting the Stockholders shall fix on the
 21 day and place or places where the subsequent election
 22 of President, Treasurer and Directors, shall be held;
 23 and such elections thenceforth shall be annually made,
 24 but if the day of the annual election should under any
 25 circumstances pass without the election of officers, the
 26 corporation shall not thereby be dissolved, but the
 27 officers elected shall continue in office until a new elec-
 28 tion takes place.

VI. *Be it further enacted*, That the election of Presi-
 2 dent, Treasurer and Directors shall be by ballot; each
 3 Stockholder having as many votes as he has shares in
 4 the stock of the Company, and the persons having a
 5 majority of the stock polled shall be considered duly
 6 elected. And at all elections, and upon all votes taken
 7 in any meeting of the Stockholders, upon any by-law,
 8 or any of the affairs of the Company, each share of stock

9 shall be entitled to one vote, to be represented either in
10 person or by proxy, and proxies may be verified in such
11 manner as the by-laws of the Company may prescribe.

VII. *Be it further enacted*, That the board of directors
2 may fill all vacancies which may occur in it during the
3 period for which they have been chartered, and in the
4 absence of the president, may appoint a president *pro*
5 *tempore*, to fill his place, from among their own number.

VIII. *Be it further enacted*, That the Board of Direc-
2 tors may call for the sums subscribed as stock in said com-
3 pany, in such instalments as the interest of said com-
4 pany may, in their opinion, require ; the call for each
5 payment shall be published in one or more newspapers
6 for the space of one month before the day of payment ;
7 and on failure of any stockholder to pay each instal-
8 ment, as thus required, the directors may sell, at public
9 auction, on a previous notice of ten days, for cash, all
10 the stock subscribed for in said company, by such
11 stockholder, and convey the same to the purchaser, at
12 said sale ; and if said sale of stock do not produce a
13 sum sufficient to pay off the incidental expenses of the
14 sale, and the entire amount owing by such stockholder
15 to the company, for such subscription of stock, then and
16 in that case the whole of such balance shall be held as
17 due at once to the company, and may be recovered of
18 such stockholder or his executors, administrator or as-
19 signs, at the suit of said company, either by summary
20 motion, in any Court of superior jurisdiction, in the
21 county where the delinquent resides, on previous notice
22 of ten days to said subscriber, or by the action of as-
23 sumpsit, in any court of competent jurisdiction, or by
24 warrant before any justice of the peace, where the sum
25 does not exceed one hundred dollars, and in all cases
26 of assessment of stock before the whole amount has
27 been paid to the company, then for all such sums due
28 on such stock, both the original subscribers, and the

29 first and all subsequent assignees, shall be liable to the
30 company, and the same may be recovered as above de-
31 scribed.

1X. *Be it further enacted,* That the debt of the stock-
2 holders, due to the company, for stock therein, either as
3 original proprietor, or as first or subsequent assignee,
4 shall be considered as of equal dignity with judgments
5 in the distribution of assets of a deceased stockholder,
6 by his legal representatives.

X. *Be it further enacted,* That the said company shall
2 issue certificates of stock to its members ; and said
3 stock may be transfered in such manner and form as
4 may be directed by the by-laws of the company.

XI. *Be it further enacted,* That said company may at
2 any time increase its capital stock to a sum sufficient
3 to complete said road, and not exceeding the additional
4 sum of one million of dollars, making, in the whole,
5 two millions of dollars, either by opening books for the
6 subscription of new stock, or borrowing money on the
7 credit of the company, and on the mortgage of its char-
8 ter and works, and the manner in which the same shall
9 be done in either case; shall be prescribed by the stock
10 holders.

XII. *Be it further enacted,* That the company shall
2 have power, and may proceed to construct, as speedily
3 as possible, a railroad, with one or more tracks, from
4 Spartanburg Court House, South Carolina, running
5 thence through the county of Rutherford, near Ruther-
6 fordton, North Carolina, and by the most practical
7 route, crossing the Blue Ridge in the Reedy Patch
8 Gap, to the line of the State of Tennessee; said com-
9 pany, shall have the privilege of using any section of
10 the said road constructed by them, before the whole of
11 said road shall be completed.

XIII. *Be it further enacted*, That all contracts or agreements, authenticated by the president and secretary of the board, to be appointed by the directors, shall be binding on the company, with or without a sale; such a mode of authentication shall be used by the company, as the company by their by-laws may adopt.

XIV. *Be it further enacted*, That said company may purchase, have and hold in fee, or for a term of years, any lands, tenements or hereditaments, which may be necessary for the said road, or for the erection of depositories, store houses, or houses for the officers, servants or agents of the company, or for work shops or foundries, to be used by the company, or for procuring stone or other materials necessary to the construction of the road, or effecting transportation, and for no other purpose whatever.

XV. *Be it further enacted*, That the company shall have the right, when necessary, to construct the said road across any public road: *Provided*, That the said company shall not obstruct any public road, without first constructing one equally as good and as convenient.

XVI. *Be it further enacted*, That when any lands or rights of way be required by said company, for the purpose of constructing their road, and for want of agreement as to the value thereof, or for any other cause, the same cannot be purchased from the owner or owners, the same may be taken at valuation, to be appointed by any Court of Record, having a common law jurisdiction, in the county where some part of the land or right of way, is situated. In making said valuation, the said commissioners shall take into consideration the loss or damage which may accrue to the owner or owners, in consequence of the land or right of way being surrendered, and the benefit and advantage, he, she or they may receive from the erection o

15 the said road, and shall state particularly the value and
 16 amount of each ; and the excess of the loss and damage
 17 over and above the advantage and benefits shall form
 18 the measure of valuation of said land or right of way*:
 19 *Provided*, nevertheless, That if any person or persons,
 20 over whose land the road may pass, or the company,
 21 should be dissatisfied with the valuation of the said
 22 commissioners, then, and in that case, either party may
 23 have an appeal to the Superior Court. The proceed-
 24 ings of said commissioners, accompanied with a full
 25 description of the said land, or right of way, shall be
 26 returned, under the hands and seals of a majority of
 27 the commissioners, to the Court from which the com-
 28 mission issued, there to remain a matter of record.
 29 And the lands, or right of way, so valued by the com-
 30 missioners, shall vest in the said company so long as
 31 the same shall be used for the purposes of said railroad,
 32 so soon as the valuation may be paid, or when refused,
 33 may have been tendered : *Provided*, That on applica-
 34 for the appointment of commissioners under this sec-
 35 tion, it shall be made to appear to the satisfaction of
 36 the Court, that at least ten days previous notice has
 37 been given by the applicant to the owner or owners of
 38 land proposed to be condemned : *Provided, further*,
 39 That the right of condemnation shall not authorize the
 40 said company to invade the dwelling house, yard or
 41 garden of any individual, without his consent.

XVII. *Be it further enacted*, That the right of said com-
 2 pany to condemn lands, in the manner described in the
 3 16th section of this act, shall extend to the condemning
 4 only one hundred feet on each side of the main track
 5 of the road, measuring from the centre of the same,
 6 unless in case of deep cuts and fillings, when said com-
 7 pany shall have power to condemn as much in addition
 8 thereto, as may be necessary for the purpose of construct-
 9 ing said road ; and the company, in like manner, shall
 10 also have power to condemn any appropriate lands for

11 constructing and building of depots, shops, warehouses,
 12 buildings for servants, agents, and persons employed on
 13 the road, not exceeding two acres in one lot or station.

XVIII. *Be it further enacted*, That all lands on which
 2 the road may be located, not heretofore granted by the
 3 State, within one hundred feet of the centre of the road,
 4 which may be constructed by said company, shall vest
 5 in the company as soon as the line of the road is defi-
 6 nitely laid out through it, and any grant of said land
 7 thereafter, shall be void.

XIX. *Be it further enacted*, That the said company shall
 2 have the exclusive right of conveyance, or transporta-
 3 tion of persons, goods, merchandize and produce, over
 4 said road, at such charges as may be fixed on by a ma-
 5 jority of the directors.

XX. *Be it further enacted*, That said company shall
 2 have the right, and it shall be their duty, to take, at the
 3 store houses they may establish on, or annex to their
 4 railroad or the branches thereof, all goods, wares, mer-
 5 chandize and produce, intended for transportation, pre-
 6 scribe the rules of priority and charge, and receive such
 7 just and reasonable compensation for storage, as they,
 8 by rules, may establish, which they shall cause to be
 9 published, or as may be fixed by agreement.

XXI. *Be it further enacted*, That if any person shall in-
 2 trude on the said railroad, by any manner of use thereof,
 3 or of the rights and privileges connected therewith,
 4 without their permission, and contrary to the will of the
 5 said company, he, she, or they, may be indicted for mis-
 6 demeanor, and upon conviction, fined and imprisoned
 7 by any court of competent jurisdiction.

XXII. *Be it further enacted*, That, if any person shall
 2 wilfully and maliciously destroy, or in any manner dam-

3 age or obstruct, or shall wilfully or maliciously cause,
 4 or aid or assist, or counsel and advise, any other person
 5 or persons, to destroy, or in any manner injure or ob-
 6 struct the said railroad, or any bridge or vehicle, used
 7 for or in the transportation thereon, any water tank,
 8 ware house, or any other property of said company, such
 9 person or persons so offending shall be liable to be in-
 10 dicted therefor, and, on conviction, shall be imprisoned
 11 not more than six, nor less than one month, and pay a
 12 fine not exceeding five hundred dollars, at the discretion
 13 of the court, before which said conviction shall take
 14 place, and shall be further liable to pay the expenses of
 15 repairing the same.

XXIII. *Be it further enacted,* That the profits of the
 2 company, or so much thereof, as the board of directors
 3 may deem advisable, shall, when the affairs of the com-
 4 pany will permit, be semi-annually divided among the
 5 stockholders, in proportion to the stock each may own.

XXIV. *Be it further enacted,* That notice of process
 2 upon the principal agent of said company, or the presi-
 3 dent or any of the directors thereof, shall be deemed and
 4 taken to be due and lawful notice of service of process
 5 upon the company.

XXV. *Be it further enacted,* That said company shall
 2 have power to construct branches to said road, or to con-
 3 nect with any other railroad that may be constructed ;
 4 and any contract that may be entered into with any
 5 other railroad company, by the president and directors
 6 of said company, after the consent of a majority of the
 7 stockholders having been first obtained, shall be binding
 8 on said company.

XXVI. *Be it further enacted,* That, provided the State
 2 of South Carolina shall grant a charter of like provisions

3 with this act, then the said railroad company shall have
 4 corporate existence in this State, and in South Carolina,
 5 as one company, unless the stockholders in North Caro-
 6 lina shall prefer a separate existence, and so determine
 7 in their first meeting ; and in that event, or if the State
 8 of South Carolina fails at the next term of her Legisla-
 9 ture, to concur in this or a similar charter, then it shall
 10 be competent for the company hereby incorporated, to
 11 make their road to such point on the South Carolina
 12 line, as they shall determine.

XXVII. *Be it further enacted*, That all officers of the
 2 company, and servants and persons in the actual em-
 3 ployment of the company, be, and they are hereby ex-
 4 empted from performing ordinary military duty, work-
 5 ing on public roads, and serving as jurors.

REPORT OF THE PRESIDENT AND DIRECTORS

OF THE

RALEIGH & GASTON R. R. COMPANY.

*To the Honorable the General Assembly of the
State of North Carolina :*

Pursuant to the provisions of the act of 1850-'51, incorporating the Raleigh and Gaston Railroad company, the president and directors of said company submit the following Report :

The sum of five hundred thousand dollars being the amount required by the said act, to be subscribed by individuals, having been subscribed, on the 15th day of September, 1851, the company was declared to be duly organized, and proceeded to the election of four directors, on the part of the individual stockholders, as provided by the act of incorporation, when Nathaniel T. Green, Thomas Miller, Henry D. Bird and George W. Mordecai were elected.

It is known to your body that four sections of the act of incorporation were by mistake omitted in enrolling the bill : these sections, among other things, provided for the appointment of three directors, on the part of the State, by the Board of Internal Improvements ; and for the purpose of carrying out what they knew to be the intention of the Legislature, the stockholders adopted among their by-laws, the provisions of those omitted sections, by virtue of which the Board of Internal Improvement appointed John S. Eaton, William W. Vass and John G. King, directors on the part of the State.

Upon the meeting of the Board of Directors, they appointed George W. Mordecai, President, William W. Vass, Treasurer and Secretary, and Henry D. Bird, General Superintendent. Mr. Bird having resigned his office as director, Mr. Thomas White was appointed in his place; and Mr. Vass having subsequently resigned his office as director, Joseph B. G. Roulhac was appointed in his place: so that the Board at present consists of Geo. W. Mordecai, President, John S. Eaton, Thomas Miller, John G. King, Joseph B. G. Roulhac and Thomas White.

A contract was immediately made with Mr James Dunlap, as agent of Messrs. Cresswell, Alley & Co., for the purchase of the iron for relaying the road, at the price of \$41 30 per ton, the whole of which has been delivered and paid for, except a small sum. The iron selected was of the U or bridge pattern, weighing 51 lbs. to the lineal yard. The road has been relaid to within about twelve miles of Raleigh, and will, it is hoped, be entirely completed during the ensuing month.

Owing to the crippled condition of the road, at the time the present company took possession of it, the Board of Directors was compelled to purchase new locomotives, passenger and burthen cars, to enable them to carry on the ordinary operations of the road, the outlay for which has considerably increased their expenses. In addition to this, the bridges, which had been too long neglected, required a thorough repair, which they are now undergoing. Several of the culverts having been blown up by heavy freshets, they have for the present been repaired with wooden trestle work; but to make them permanent and secure, they will require to be rebuilt of solid masonry. When these repairs shall have been completed, and the necessary additions made to the workshops at Raleigh, the Railroad will be in complete order, and instead of being a laughing stock and reproach to the State, as it has heretofore been, will compare favorably with any road in the Union.

The necessary sum having been subscribed for the construction of the Weldon and Gaston connection, that work

has been commenced, and is now being vigorously prosecuted. It is expected to be finished early in the Spring, and will form a valuable appendage to the Raleigh and Gaston Railroad.

A Railroad has likewise been commenced, leading from Clarksville to a point on the Raleigh and Gaston Railroad near Ridgway, which, when completed, will furnish another valuable feeder to this road. To make these connections complete, and add to the profits of the road, as well as to answer the wants of the community, it is very desirable that this road should be at once connected with the North Carolina Railroad, at or near Raleigh. By the provisions of the law, as it now stands, this connection cannot be formed until the superstructure of that road is laid down at Raleigh, but as it may be important to the interests of the State, that a portion of the iron for laying that road should be transported over the Raleigh and Gaston road, this consideration, independently of any other, would suggest to the Legislature the propriety and expediency of authorising that connection to be made forthwith. To effect this, as well as to supply the omissions before mentioned, a revised charter has been prepared, and submitted to your honorable body, which we earnestly hope may meet with your approbation.

Notwithstanding the many difficulties and disadvantages under which this road has labored, and the crippled condition of its motive power, and roadway, we are gratified to be able to say that the receipts on the road have steadily and largely increased, and we have no doubt, when completed, the road will, after paying all necessary expenses, yield a handsome revenue to the State, as well as to those patriotic individuals who have engaged in the enterprize.

A detailed statement of the receipts and expenditures for last fiscal year, ending the 1st October last, is herewith submitted.

By order of the Board of Directors.

GEO. W. MORDECAI,
Pres. R. & G. R. R. Co.

*Receipts and Disbursements of the Raleigh and Gaston
Railroad Company, for the year ending September 30,
1852.*

Rec'd on acc't of capital stock,	\$294,807 52
Do. do bills payable,	115,750 00
Do. do freight,	35,879 95
Do. do passengers,	25,827 09
Do. do mail,	3,770 86
	<hr/> 65,477 90
	<hr/> \$476,035 42

Disbursed to transportation,	\$13,958 94
Do repairs of road,	10,085 84
Do repairs of engines and cars,	15,539 40
Do depots,	3,436 33
Do salaries,	1,000 00
Do contingencies,	565 40
Do interest account,	4,643 41
Do construction of road,	411,758 49
Balance, Oct. 1st.,	15,047 61
	<hr/> \$476,035 42

W. W. VASS, Treasurer.

[HOUSE DOCUMENT, No. 27.]

REPORT OF
JUDICIARY COMMITTEE,
WITH A
BILL CONCERNING
THE
'SUPERIOR AND COUNTY COURTS.



RALEIGH:
SEATON GALES, PRINTER TO THE LEGISLATURE.

1852

The Committee on the Judiciary, to whom was referred a Bill abolishing Trial by Jury in the County Courts, and for the more speedy and certain administration of justice,

REPORT :

That they have attentively considered the provisions of the bill referred to them, and recommend several amendments to the same ; and herewith report a bill, in which they ask the concurrence of the House.

[Report made by Mr. R. M. SAUNDERS. Ordered that the bill and proposed amendments be printed, and made the special order of the day for Tuesday, the 9th instant, at 12 o'clock.]

A BILL

CONCERNING THE SUPERIOR AND COUNTY COURTS.

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by the autho-*
3 *rity of the same, That the State shall be divided into*
4 *Nine Judicial Circuits, and into three Judicial Districts.*
5 *The first, second and third Circuits, as they may be*
6 *hereafter established, shall form the first district: the*
7 *fourth, fifth and sixth Circuits shall form the second*
8 *District: the seventh, eighth and ninth Circuits shall*
9 *form the third District: and the present Judges of the*
10 *Superior Courts of Law and Equity, with two others*
11 *to be elected by the present General Assembly, and*
12 *their successors, shall be attached to the several Dis-*
13 *tricts, as may be provided by a supplemental act, so as*
14 *to assign three of said Judges to each District. And the*
15 *Judges so attached to the three several Districts shall*
16 *ride the Circuits composing the same, and hold the*
17 *Courts therein, as they may arrange among themselves,*
18 *so that no Judge shall ride and hold the Courts in the*
19 *same Circuit twice in succession: Provided, That the*
20 *said Judges may interchange their ridings from one*
21 *District to another as they may agree on.*

II. *Be it further enacted*, That there shall be three terms
 2 of the Superior Courts in each year, to be designated
 3 as the Spring, Summer and Fall Terms, as may be
 4 hereafter provided by a supplemental act; and the
 5 Judges of the Superior Courts of Law and Equity shall
 6 receive each an annual salary of two thousand dollars,
 7 to be paid quarterly, and in the manner now provided
 8 by law.

III. *Be it further enacted*, That said Superior Courts of
 2 Law and Equity shall continue to have and exercise
 3 the same jurisdiction, both civil and criminal, at Law
 4 and in Equity, that the present Superior Courts of Law
 5 and Equity have and exercise, and in addition thereto,
 6 the said Superior Courts of Law shall hereafter have
 7 and exercise sole and exclusive original jurisdiction of
 8 all pleas whatsoever, requiring the intervention of a
 9 jury, whereof the present Superior Courts or the Courts
 10 of Pleas and Quarter Sessions have heretofore had
 11 jurisdiction.

IV. *Be it further enacted*, That hereafter, no suit, civil
 2 or criminal, requiring the intervention of a jury, shall
 3 originate in any of the Courts of Pleas and Quarter
 4 Sessions of this State, nor shall any juries be summon-
 5 ed to attend any of said Courts of Pleas and Quarter
 6 Sessions.

V. *Be it further enacted*, That all appeals from judg-
 2 ments rendered by Justices of the Peace in civil or
 3 criminal cases, and all recognizances taken by Justices
 4 of the Peace, in criminal proceedings, shall be returned
 5 to the next ensuing Superior Court of Law for the
 6 county in which they are taken, under the same rules
 7 and regulations now required by law.

VI. *Be it further enacted*, That the Courts of Pleas and
 2 Quarter Sessions, for the several counties in this State,
 3 are hereby required, at their terms next after this act
 4 goes into operation, to take up their respective State
 5 dockets, and in regular order, bind over the parties there-
 6 in, together with the witnesses, to the next ensuing Su-
 7 perior Court of Law, for each county respectively.

VII. *Be it further enacted*, That it shall be the duty of
 2 the clerks of the several Courts of Pleas and Quarter
 3 Sessions in this State, within twenty days immediately
 4 after the terms of their respective Courts held next after
 5 this act goes into effect, to make out a transcript of all
 6 suits, whether civil or criminal, then pending in their
 7 respective Courts, and deliver the same, together with
 8 all papers relating thereto, to the clerks of the Superior
 9 Courts of their respective counties.

VIII. *Be it further enacted*, That it shall be the duty of
 2 the clerks of the several Superior Courts to receive
 3 such transcripts and original papers, and immediately
 4 enter them on their respective dockets, in regular suc-
 5 cession, observing the order of precedence of such
 6 suit as indicated by its number, and in such order said
 7 suits shall stand for trial.

IX. *Be it further enacted*, That, when any will or paper
 2 purporting to be the last will and testament of any per-
 3 son is brought into any of the Courts of Pleas and
 4 Quarter Sessions of this State, for probate, and the pro-
 5 bate thereof is contested, and an issue of *devisavit vel*
 6 *non*, the clerk of such Court shall make a record of such
 7 issue, and shall, within ten days after the rise of such
 8 Court, make out a transcript of such record, which, to-
 9 gether with the original will and paper purporting to
 10 be a will, shall be delivered by him to the clerk of the

11 county in which the same may be pending, and the
 12 clerk of the Superior Court shall receive and enter the
 13 same on his docket, and the several Superior Courts
 14 shall have full power and authority to try and deter-
 15 mine all such cases, and it shall be the duty of the clerks
 16 of said Superior Courts, whenever any case may be de-
 17 termined in accordance with the above provisions, to
 18 issue a certificate thereof to the Court of Pleas and Quar-
 19 ter Sessions of the county from which the same may
 20 have originated, with the original will or paper, which
 21 shall be recorded by said Court of Pleas and Quarter
 22 Sessions, as evidence of the probate or rejection of said
 23 will or paper.

X. *Be it further enacted*, That in all cases of caveats
 2 for land, the same proceedings shall be had and observed
 3 by the clerks of the Courts of Pleas and Quarter Ses-
 4 sions and Superior Courts, respectively, as prescribed
 5 in the ninth section of this act in regard to wills;
 6 and in all issues of bastardy, in all issues of fraud made
 7 up under the insolvent debtors' law, and in all other
 8 cases whatsoever, where the Courts of Pleas and Quarter
 9 Sessions properly have jurisdiction of the subject mat-
 10 ter, but on issue being joined, the intervention of a jury
 11 may be necessary to try the same; and where the said
 12 courts have heretofore had the right to make up such
 13 issue and try the same, it shall be the duty of the clerks
 14 of said courts, to make out a transcript of the record
 15 of any such case within ten days after the rise of the
 16 court at which such issue may have been joined, and
 17 deliver it, with all papers relating thereto, to the clerk
 18 of the Superior Court of that county; and it shall be
 19 the duty of said Superior Court clerk, to receive, and
 20 enter the same on his docket, and the said Superior
 21 Courts are hereby authorised to take such proceeding
 22 therein, as required by law.

XI. *Be it further enacted*, That, on any cause or issue
 2 being removed into any of said Superior Courts, from
 3 any Court of Pleas and Quarter Sessions, or other infe-
 4 rior tribunal, under the provisions of this act, it shall
 5 be the duty of the several clerks of said courts, on the
 6 application of either plaintiff or defendant, to issue sub-
 7 pœnas and other process, as now required by law.

XII. *Be it further enacted*, That, hereafter, the clerks of
 2 the several Superior Courts of Law in this State, by
 3 themselves, or their deputy, shall be required to attend
 4 in their respective offices, for the transaction of business,
 5 each and every day in the year, between the hours of
 6 nine and twelve o'clock in the morning, and two and
 7 five o'clock in the evening, except on Sundays and the
 8 Fourth of July; and, that if any clerk of the several
 9 Courts of Pleas and Quarter Sessions, or of the several
 10 Superior Courts, shall either fail, or neglect to perform
 11 the duties required of him by the several provisions of
 12 this act, such clerk shall forfeit and pay the sum of one
 13 hundred dollars for each and every case of failure or
 14 neglect, to be recovered by an action of debt, in a Court
 15 of Record, in the name of any person suing for the
 16 same, and be further liable to an action on the case, for
 17 damages to the person injured by such failure or neglect.

XIII. *Be it further enacted*, That there shall be two
 2 Solicitors of the Superior Courts for each Circuit, with
 3 the Attorney General, to be so arranged as to give to
 4 each one half of the Courts in each Circuit, as near as
 5 may be, and when such division cannot be made, it
 6 shall be the duty of the Judge who shall first ride the
 7 Circuit, after this Act shall take effect, to assign to the
 8 Attorney General and Solicitors the Courts in his Cir-
 9 cuit which they are to attend, should they be unable to
 10 make such an arrangement among themselves; provided

11 the Attorney General and Solicitors now in office shall
 12 be assigned to the Circuits in which they at present
 13 reside : and there shall be elected by the General As-
 14 sembly, ten Solicitors in addition to the present num-
 15 ber ; and the Attorney General, with the several Solici-
 16 tors of the said Superior Courts, shall receive the same
 17 salary and fees, and hold their offices for the same time
 18 as the present Solicitors of the Superior Courts.

XIV. *Be it further enacted,* That the present General
 2 Assembly shall provide for the division of the State into
 3 three Judicial Districts and nine Judicial Circuits, as
 4 aforesaid, and shall fix the times for holding the said
 5 several Superior Courts therein.

XV. *Be it further enacted,* That the several Courts of
 2 Pleas and Quarter-Sessions in this State, shall hereafter
 3 be held at the time and in the manner in which they
 4 have usually been held, and shall be used as Courts of
 5 Probate, and for the transaction of county business only,
 6 and shall not hold their sessions for a longer time than
 7 two days in each term thereof.

XVI. *Be it further enacted,* That this act shall take ef-
 2 fect and be in force from and after the day of next.

XVII. *Be it further enacted,* That all laws and clauses
 2 of laws, conflicting with the provisions of this act, be,
 3 and the same are, hereby repealed.

REPORT.

The Committee on Constitutional Reform, to whom was referred a Bill to amend the Constitution of North Carolina, have had the same under consideration, and ask leave to report the bill back to the House, with the recommendation that it do not pass.

Respectfully submitted,
WILLIAM S. HARRIS, *Chairman.*

HOUSE OF COMMONS, Oct. 25, 1852.

[Introduced by Mr. AVERY.—Read first time and passed without objection, and referred to the Select Committee on Constitutional Reform.]

HOUSE OF COMMONS, Nov. 6, 1852.

[Read second time and laid on the table.]

HOUSE OF COMMONS, Nov. 8, 1852.

[Bill and Report ordered to be printed, and made the order of the day for Friday next.]

A BILL

To amend the Constitution of North Carolina.

Whereas, at the last Session of the General Assembly, 2 A. D., 1850-'51, a Preamble and Bill, proposing to 3 amend the Constitution of North Carolina, was read 4 three times in each House, and agreed to by three-fifths 5 of the whole number of members of each House res- 6 pectively, and has been duly published for six months 7 previous to the election of the members to the present 8 General Assembly: And, *Whereas*, it is the purpose 9 of this Bill, to re enact and agree to the alteration pro- 10 posed in and by the Preamble, and the first section of 11 the Bill aforesaid, in the precise words and figures there- 12 of, by the concurring votes of two-thirds of the whole 13 representation in each House of this General Assembly, 14 after the same shall have been read three times, or three 15 several days in each House.

Now, " *Whereas* the freehold qualification, now required
 2 for electors for members of the Senate, conflicts with
 3 the fundamental principles of liberty, Therefore,

I. *Be it enacted by the General Assembly of the State of*
 2 *North Carolina, and it is hereby enacted by the autho-*
 3 *rity of the same,* Two-thirds of the whole repre-
 4 sentation in each House concurring, " That the second
 5 clause of the third section of the first article of the
 6 amended constitution, ratified by the people of North
 7 Carolina, on the second Monday of November, A. D.,
 8 1835, be amended by striking out the words, "and pos-
 9 sessed of a freehold within the same district, of fifty
 10 acres of land, for six months next before and at the day
 11 of election," so that the said clause of said section shall
 12 read as follows: 2. All free white men of the age of
 13 twenty-one years, (except as is hereinafter declared,)
 14 who have been inhabitants of any one district within
 15 the State, twelve months immediately preceding the
 16 day of any election, and shall have paid public taxes,
 17 shall be entitled to vote for a member of the Senate."

II. *Be it further enacted,* That the foregoing amend-
 2 ment to the Constitution of this State, as embodied in
 3 the preceding section, be submitted by the Governor to
 4 the people, on the first of August, A. D., 1853, thirty
 5 days notice having been given, and that the polls be
 6 opened by the respective sheriffs, and kept open for one
 7 day, from the hour of ten o'clock in the morning, to
 8 the hour of 6 o'clock in the afternoon, at the several
 9 election precincts in each and every county in the
 10 State, under the same rules and regulations as now
 11 exist, for the election of members to the General As-
 12 sembly: That the said sheriffs be required to compare
 13 and certify the results of the elections, on or before the
 14 Saturday following, and transmit the same in twenty
 15 days thereafter to the Governor of the State: That

16 all persons qualified to vote for members of the House
 17 of Commons, shall vote for or against a ratification of
 18 said amendment: Those who wish a ratification of
 19 said amendment, voting with a printed or written ticket
 20 "*approved;*" those of a contrary opinion, "*not approv-*
 21 *ed.* Further, That it shall be the duty of the sheriffs
 22 to make duplicate statements of the polls in their res-
 23 pective counties, sworn to before the Clerk of the
 24 County Court; one copy of which shall be deposited in
 25 said clerk's office, and the other copy transmitted to
 26 the Governor of the State, at Raleigh.

III. *Be it further enacted,* That when the returns
 2 aforesaid shall have been received, the same shall be
 3 opened by the Governor, in the presence of the Secre-
 4 tary of State and Treasurer; and in case a majority of
 5 the votes polled shall be in favor of a ratification of
 6 said amendment, the same shall be forthwith made
 7 known by a proclamation of the Governor to the peo-
 8 ple of the State. And thereupon, the Governor shall
 9 cause to be endorsed on the said amendment, as en-
 10 rolled by the two Houses of this General Assembly, or
 11 shall annex thereunto a certificate under his signature,
 12 declaring that said amendment has been ratified by the
 13 people of North Carolina; and the Secretary of State
 14 shall countersign the said certificate, and annex thereto
 15 the great seal of the State: And the said amendment,
 16 so enrolled, with the certificate aforesaid, shall be for-
 17 ever kept among the archives of the State, in the office
 18 of the secretary aforesaid.

MINORITY REPORT.

The undersigned, members of the Select Committee on Constitutional Reform, to whom was referred the bill to amend the Constitution of North Carolina, do not concur in the report submitted by a majority of that committee; and beg leave to enter their unqualified dissent thereto, and to express their most hearty approval of the amendment proposed by the bill, and of the mode therein adopted for effecting it.

The right of an elector, when once qualified to vote for candidates for all elective officers, lies at the very foundation of American ideas of liberty and equality, and no one can oppose it, who believes in the capacity of man for self-government.

The statement of the proposition amounts in itself to a demonstration, because equality at the ballot box must be an axiom in the political faith of every genuine advocate and supporter of republican principles.

An elaborate argument, therefore, to support the principle of equal suffrage, as involved in the bill, is unnecessary, and would be an act of supererogation at this time. The patriotic and intelligent voters of North Carolina have demanded a change in our fundamental law, so as to incorporate therein, this principle of equality, with a unanimity unparalleled, and in a voice which cannot be disregarded. The people have not only settled the question as regards the bill, now under consideration, by an emphatic approval of the principle it involves, but they have approved, in terms alike decisive, the mode therein adopted, of amending their constitution, at least so far as regards the amendment embodied in the bill.

The only enquiry, therefore, which should have engaged the attention of the committee, was, whether the require-

ments of the Constitution, in relation to amendments thereto by the Legislature, had been strictly complied with. Upon this latter point, there was no difference of opinion among the members of the committee. At the last session of the General Assembly, the present bill passed both Houses, by the majority prescribed by the Constitution, and all the solemnities required in its enactment were duly observed at that session. The committee likewise concurred in opinion, that this bill, so agreed to, at the last session, had been duly published six months previous to the election of the members of this General Assembly. It is much to be regretted that differences of opinion among the members of the committee, either as to the principle involved in the amendment itself, or, as to the mode of effecting it, should have resulted in a report adverse to a bill which meets the approval of nine-tenths of the people of the State, and indignant would have been the popular response from all sections, if the report of a majority of the committee determined the question; but fortunately, it still remains for this Legislature to decide whether they will, by a two-third vote, effectuate the object so wisely begun at the last session, by re-enacting this bill, and submit the great and important question it involves, to the people for their ratification, or whether objections, merely formal, shall forestall the wishes of the people, and debar them the enjoyment of essential political privileges. Hoping that all the members of the House may ultimately agree to unite with the undersigned in responding to the demands of the people in relation to equal suffrage, they earnestly recommend the passage of the present bill, as the most effectual and speedy mode of consummating the wishes of the people on that subject.

Respectfully submitted,

SAMUEL A. WILLIAMS,
JO. DOBSON,
C. M. STILES.

[HOUSE DOCUMENT, No 29.]

REPORT
OF THE
COMMITTEE
ON
CONSTITUTIONAL AMENDMENTS.



RALEIGH:
SEATON GALES, PRINTER TO THE LEGISLATURE.

1852

The Committee on so much of the Governor's Message, as relates to Free Suffrage, and other amendments to the Constitution, have had the same under consideration, and ask leave to make their report.

R E P O R T .

Your Committee are of opinion that a frequent recurrence to fundamental principles is essentially necessary ; and that the Constitution should not be changed for light and transient causes. It is conceded that every alteration or modification of the organic law, involves, to some extent, the rights of the private citizen, and the principles of the public liberty.

“ All political power is vested in and derived from the people only,” is a cardinal maxim of regulated freedom : embodied in the Bill of Rights : settled by the lessons of experience : sustained throughout the lapse of time, and amid every change of circumstances, by the jealous patriotism of the people. The first Constitution was framed in 1776, and adopted as the supreme law of a free people, notwithstanding the menaces of overwhelming power, and the frowns of an offended king.

The wisdom of sages, and the conservatism of enlightened statesmen, are enstamped upon every line of that sacred instrument, although North Carolina was just then emerging from a state of colonial dependence.

This Constitution remained in full force until the augmentation of population in the West produced inequality of representation, which induced the people to demand and obtain the Convention of 1835. The Convention thus called, amended the constitution ; removed all the grievances then complained of ; adjusted amicably the basis of representation ; and granted all the privileges which the progress of the age demanded.

Thus your Committee find that, in a space of time covering 78 years, there have been no radical changes, except those made by the Convention of 1835, in obedience to the expressed voice of the people, and ratified by them according to the ancient republican usage.

Under the Constitution of 1776, and the amended Constitution of 1835, the State of North Carolina has pursued the even tenor of her way—illustrating the integrity and conservatism of her organic law, by protecting the rights of every citizen, and securing to her just rule, a loyal submission.

Your Committee are of opinion, that when amendments to the organic law are suggested by time and experience, and clearly demanded by the popular voice, that a convention, fresh from the people, is not only the safer, wiser mode, but most strictly in accordance with the ancient republican landmarks.

It may be said that amendment of the Constitution, by legislative enactment, is in exact conformity to a provision of the Constitution itself, and cannot be at war with the fundamental maxim, that “all political power is vested in and derived from the people only. But your committee conceive that there is a great and material difference between the simple right or power of accepting or rejecting, and that full and complete power of the people, to begin conduct and complete, additions or alterations in their organic law. In the present and prospective condition of things, it is not likely that the election of members to the Assembly, at the general election, will, in half the instances, turn purely on issues growing out of amendments to the Constitution. Party spirit, and many other exciting issues of Federal and State policy, that are usually mixed up in the biennial elections, will ever prevent such a result. When the people yield to the General Assembly, this legislative power over their fundamental law, they have, by precedent, vested it with additional power, and blended in

the same body, the law-making and the constitution-making power. An important object of the Constitution is, to limit the power of legislators, and other persons whom the people intrust with power. Let it be once established, that the people, on their own motion, can have no other privilege or safeguard, by constitutional provision, than such as those whom they first place in power, may propose to them, it is apprehended they have taken one step to the prejudice of popular rights and well-regulated freedom.

It is true, that in the matter of amending the Constitution of the United States, Congress has the power of proposing amendments to the States, but your Committee are at a loss to see what instruction this gives as to the safer mode of amending the Constitution of North Carolina. The Constitution of the United States forms a government of limited powers, for certain purposes, uniting the people of the States, and for its authority rests on the adoption of the people in their respective States—each State, irrespective of the number of its inhabitants, having the same voice. Saving the power that North Carolina has, for the general good, surrendered to the General Government, she is a sovereign State—a government of the people. It is to be feared, that if the legislative mode of amending the Constitution, becomes, by precedent, fixed on the people, in making the important alteration now contemplated, we shall, for years to come, have the attention of the Assembly occupied with constitutional amendments, and that members of this Legislature will live to see the day, when some Governor of the State, in his biennial message, will suggest the propriety of appointing commissioners to revise and define the Constitution itself.

Other amendments—the election of judges and justices of the peace by the people—are recommended by the Executive. Others, in which the public mind take a deep interest, are urged, and as soon as the period arrives, for connecting them in the party politics of the day, will pos-

sibly, one after another, be brought to the attention of the Assembly : such as the election of a Lieutenant Governor, Secretary, Treasurer, Comptroller, the proper qualifications of Governor, Members of Assembly, Jurors, &c.

Besides these, are the more exciting questions of the basis of representation. These questions, as to the basis of representation, have as yet been merely sectional, but to show that they are of a character, for other reasons, to become exciting elements with other questions in our popular elections, two tables are hereto annexed. These tables, prepared in haste, and hereto attached, marked No. 1 and 2, may not in all things be correct. They are, however, sufficiently accurate to present many considerations against having the settlement of all these constitutional questions kept before the public mind a sufficient length of time, for the Legislature, by any thing it can do, to give quiet and final settlement to them all. However little inclined the popular mind may be now, to many of the modifications alluded to, we should profit by observation and the experience of the past. We hope to be charged with no unreasonable reflections, when we say, that in future political contests, parties, desirous of success, may not hesitate to favor the views of the friends of any of the alterations mentioned, thereby indicating more concern for the success and triumph of party, than the stability and permanence of the Constitution, and thereby giving the triumph of party, by such means secured, the appearance of a popular decision on a question of reform, which was only an element in the strife of sufficient influence to turn the scales.

Impressed with these views, your Committee entertain the settled conviction that, if the General Assembly travel out of the true and legitimate path of legislation, to *tinker* with the Constitution, that it will be establishing a dangerous precedent, and committing the people to a mode of amendment, which the history of the two last legislatures demonstrates to be both expensive and precarious.

In the event this system of constitutional reform be continued, it is not improbable that the organic law may become shreds and patches, and the original Constitution, with many of the principles of conservative liberty which it embodies, be lost amid the rubbish of legislative enactments.

Your Committee believe that all these grave questions ought to be definitely settled at the earliest period, and thus obviate the fruitless discussion and bad temper, which must necessarily result from their inseparable connection, under existing circumstances, with the ordinary legislation of the country, and exciting issues, growing out of the politics of the day.

Owing to extraneous influences already indicated, the spirit of innovation may be at work in every legislature, and thus render the Constitution unstable as water. It is desirable therefore, in every view of the matter, that all these vexed questions of constitutional reform should be thrust out from the arena of politics, and committed where they rightly belong—to the calm, dispassionate, and enlightened judgment of a free people. Confiding in the wisdom of the General Assembly, to devise some more speedy and satisfactory plan, by which the people may pass upon, and settle finally for themselves, all these deeply interesting questions, your committee respectfully disagree to the recommendations of the Governor, and ask to be discharged from the further consideration of the subject.

Respectfully submitted,

W. S. HARRIS, *Chm'n.*

W. H. TRIPP,

WILLIE PERRY,

C. M. STILES.

T A B L E ,

[1]

Showing the number of White Inhabitants, the Federal Numbers, the number of Votes, and the amount of Taxes paid, in the several Counties of the Eastern and Western sections of North Carolina.

Compiled from the Census of 1850, the Official Return of the Votes for Governor in 1850, and the Comptroller's Statement of the Taxes for 1850.

E A S T E R N .

Counties.	White Inhab'ts.	Federal Number.	Number of Votes.	Amount of Taxes.
Beaufort,	7,663	11,716	1351	\$ 2,782 73
Bertie,	5,344	9,973	957	3,194 39
Bladen,	5,055	8,024	872	1,314 07
Brunswick,	3,651	5,951	566	1,028 13
Camden,	3,572	5,174	582	1,329 95
Carteret,	5,167	6,208	776	728 70
Chowan,	2,944	5,252	504	2,199 10
Columbus,	4,257	5,308	616	657 26
Craven,	7,222	12,329	1150	4,739 88
Cumberland,	12,447	17,723	1912	4,955 40
Currituck,	4,600	6,257	642	1,169 58
Duplin,	7,165	11,111	1261	2,069 36
Edgecomb,	8,365	13,770	1569	5,275 73
Franklin,	5,685	9,510	1005	2,698 05
Gates,	4,158	6,878	764	1,533 42
Granville,	10,296	17,303	1958	4,529 44
Greene,	3,259	5,321	659	1,409 00
Halifax,	5,763	13,007	1021	4,181 04
Hertford,	3,553	6,656	441	2,107 54
Hyde,	4,798	6,585	738	1,241 94
Johnston,	8,900	11,861	1487	2,205 02

STATEMENT CONTINUED.

Jones,	2,139	3,935	403	1,044 66
Lenoir,	3,567	6,182	732	1,785 82
Martin,	4,615	6,961	908	1,944 88
Nash,	5,972	9,034	989	1,999 10
New Hanover,	8,190	14,236	1465	5,920 47
Northampton,	5,994	10,731	1013	2,829 88
Onslow,	5,005	7,040	901	1,306 60
Pasquotank,	4,611	7,708	607	2,343 53
Perquimons,	3,629	6,030	638	1,751 25
Pitt,	6,654	10,745	1174	2,648 36
Sampson,	8,424	12,311	1360	2,287 51
Tyrrell,	3,301	4,452	484	700 15
Wake,	14,177	21,123	2429	,280 77
Warren,	4,604	10,366	872	3,885 00
Washington,	3,216	4,780	480	1,453 10
Wayne,	7,802	11,478	1312	2,870 81
	215,764	343,029	36,598	\$92,401 62

WESTERN.

Counties.	White Inhab'ts.	Federal Number.	Number of Votes.	Amount of Taxes.
Alamance,	7,924	10,166		\$ 1,958 80
Alexander,	4,653	5,003	483	448 87
Anson,	6,556	10,756	1545	2,450 60
Ashe,	8,096	8,539	1291	809 89
Buncombe,	11,601	12,738	1654	1,135 75
Burke,	5,477	6,919	1685	1,381 49
Cabarrus,	6,943	8,674	1105	2,156 85
Caldwell,	5,006	6,836	787	773 32
Caswell,	7,081	12,161	1407	3,623 75
Catawba,	7,272	8,234		1,225 49
Chatham,	12,164	16,055	2045	2,668 70
Cherokee,	6,493	6,703	943	273 11
Cleaveland,	8,592	9,697	1117	,052 31
Davidson,	12,139	14,123	1858	2,048 54
Davie,	5,613	6,998	890	1,223 90
Forsyth,	9,663	10,627		2,181 91
Gaston,	5,928	7,228		1,072 58
Guilford,	15,874	18,480	2298	3,325 69
Haywood,	5,931	6,907	907	691 37
Henderson,	5,892	6,483	936	898 81

STATEMENT CONTINUED.

Counties.	White Inhab'ts.	Federal Number.	Number of Votes.	Amount of Taxes.
Iredell,	10,547	13,062	1289	\$ 1,955 58
Lincoln,	5,661	6,924	2682	1,467 81
McDowell,	4,777	5,741		710 84
Macon,	5,613	6,169	874	535 31
Madison,				254 79
Mecklenburg,	8,284	11,724	1822	3,630 99
Montgomery,	5,055	6,163	802	885 36
Moore,	7,197	8,552	1260	978 70
Orange,	11,330	14,957	3489	2,720 20
Person,	5,593	8,825	906	2,040 82
Randolph,	13,795	15,176	1729	1,995 27
Richmond,	4,890	7,936	821	1,704 55
Robeson,	7,290	11,080	1188	1,524 38
Rockingham,	8,747	12,363	1444	2,497 70
Rowan,	9,901	12,329	1539	2,680 30
Rutherford,	10,425	12,388	1437	1,925 78
Stanly,	5,437	6,348	900	737 99
Stokes,	7,264	8,490	2512	1,075 74
Surry,	16,171	17,643	2369	1,620 99
Union,	8,018	9,258		1,119 62
Watauga,	3,242	3,348		323 29
Wilkes,	10,746	11,642	1747	845 72
Yancey,	7,809	8,068	1088	296 14
	333,690	410,513	50,879	\$ 65,025 60

RECAPITULATION.

NUMBER OF WHITE INHABITANTS.

In the Western counties,	336,690
In the Eastern counties,	215,764
Western excess,	<u>120,926</u>

FEDERAL NUMBERS.

In the Western counties,	410,513
In the Eastern counties,	343,029
Western excess,	<u>67,484</u>

NUMBER OF VOTES.

In the Western Counties,	50,879
In the Eastern counties,	36,598
Western excess,	<u>14,281</u>

AMOUNT OF TAXES.

Paid by the Eastern counties,	\$92,401 62
Paid by the Western counties,	65,025 50
Eastern excess,	<u>\$27,376 02</u>

In addition to the above, the aggregate *number of Farms* in the Eastern and Western portions of the State, as ascertained by the census of 1850, is here presented :

In the Western counties,	35,472
In the Eastern counties,	21,434

Western excess,	14,038
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Senatorial Districts, under last arrangement

Eastern,	28
Western,	22

Eastern majority,	6
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No of Commoners, under same arrangement

Western,	62
Eastern,	58
Western majority,	4

Under the Constitution, as it was before its amendment in 1835, the same territory embraced 37 Eastern and 27 Western Counties ; and each county was then represented, without regard to population or taxation, by a Senator and two Commoners.

T A B L E ,

[2.]

Showing the number of White Inhabitants, the Federal Numbers, the number of Votes, and the amount of Taxes paid in the several Counties of North Carolina.

Compiled from the Census of 1850, the Official Return of the Votes for Governor in 1850, and the Comptroller's Statement of the Taxes for 1850.

FIRST CLASS.

Counties.	White Inhab'ts.	Federal Number.	Number of Votes.	Amount of Taxes.
Beaufort,	7,663	11,716	1,351	\$ 2,782 73
Bertie, .	5,344	9,973	957	3,194 39
Bladen,	5,055	8,024	872	1,314 07
Brunswick,	3,651	5,951	566	1,028 13
Camden,	3,572	5,174	582	1,329 95
Carteret,	5,167	6,208	776	728 70
Caswell,	7,081	12,161	1,407	3,623 75
Chowan,	2,944	5,232	504	2,199 10
Columbus,	4,257	5,308	616	657 26
Currituck,	4,600	6,257	642	1,169 58
Duplin,	7,165	11,111	1,261	2,069 36
Edgecombe,	8,365	13,770	1,569	5,275 73
Franklin,	5,685	9,510	1,005	2,698 05
Gates,	4,158	6,878	764	1,533 42
Greene,	3,259	5,321	659	1,409 00
Halifax,	5,763	13,207	1,021	4,181 04
Hertford,	3,553	6,656	441	2,107 54
Hyde,	4,798	6,585	738	1,241 94
Johnson,	8,900	11,861	1,487	2,205 02
Jones,	2,139	3,935	403	1,044 66
Lenoir,	3,567	6,182	732	1,785 82

STATEMENT CONTINUED.

Counties.	White Inhab'ts.	Federal Number.	Number of Votes.	Amount o Taxes.
Martin,	4,615	6,961	908	\$ 1,944 88
Mecklenburg,	8,284	11,724	1,822	3,630 99
Nash,	5,972	9,034	989	1,999 10
Northampton,	5,994	10,731	1,013	2,829 88
Onslow,	5,005	7,040	901	1,306 60
Pasquotank,	4,611	7,708	607	2,343 53
Perquimons,	3,629	6,030	638	1,751 25
Person,	5,593	8,825	906	2,040 82
Pitt,	6,654	10,745	1,174	2,648 36
Rockingham,	8,747	12,363	1,444	2,497 70
Sampson,	8,424	12,311	1,360	2,287 51
Tyrrell,	3,301	4,452	484	700 15
Warren,	4,604	10,366	872	3,885 00
Washington,	3,216	4,780	480	1,453 10
Wayne.	7,802	11,478	1,312	2,870 81
	19,241	304,388	33,264	\$ 77,767 92

SECOND CLASS.

Counties.	White Irhab'ts.	Federal Number.	Number of Votes.	Amount of Taxes.
Alamance,	7,924	10,166		\$ 1,953 80
Alexander,	4,653	5,003	483	448 87
Anson,	6,556	10,756	1,545	2,450 60
Ashe,	8,096	8,539	1,291	809 89
Buncombe,	11,601	12,738	1,684	1,235 75
Burke,	5,477	6,919	1,685	1,381 49
Cabarrus,	6,943	8,674	1,105	2,156 85
Caldwell,	5,006	5,836	787	773 32
Catawba,	7,272	8,234		1,225 49
Chatham,	12,164	16,055	2,044	2,668 70
Cherokee,	6,493	6,703	943	273 11
Cleaveland,	8,592	9,697	1,117	1,052 31
Craven,	7,222	12,329	1,150	4,739 88
Cumberland,	12,447	17,723	1,912	4,956 40
Davidson,	12,139	14,123	1,858	2,048 54
Davie,	5,613	6,998	890	1,223 20
Forsyth,	9,663	10,627		2,181 91
Gaston,	5,928	7,228		1,072 58

STATEMENT CONTINUED.

Granville,	10,296	17,303	1,958	4,529	44
Guilford,	15,874	18,480	2,298	3,325	69
Haywood,	5,931	6,907	907	691	37
Henderson,	5,892	6,483	936	898	81
Iredell,	10,547	13,062	1,289	1,955	58
Lincoln,	5,661	6,924	2,682	1,467	81
McDowell,	4,777	5,741		710	84
Macon,	5,613	6,169	874	535	31
Madison,				254	79
Montgomery,	5,055	6,163	802	885	36
Moore,	7,197	8,552	1,260	978	70
New Hanover,	8,190	14,236	1,464	5,920	47
Orange,	11,330	14,957	3,489	2,720	20
Randolph,	13,795	15,176	1,729	1,995	27
Richmond,	4,890	7,936	821	1,704	55
Robeson,	7,290	11,080	1,188	1,524	38
Rowan,	9,901	12,329	1,539	2,680	30
Rutherford,	10,425	12,388	1,437	1,925	78
Stanly,	5,437	6,348	900	737	99
Stokes,	7,264	8,490	2,512	1,076	74
Surry,	16,171	17,643	2,369	1,620	99
Union,	8,018	9,258		1,119	62
Wake,	14,177	21,125	2,429	6,280	77
Watauga,	3,242	3,348		323	29
Wilkes,	10,776	11,642	1,747	845	72
Yancey,	8,809	8,068	1,088	296	14
	359,217	449,154	53,213	\$79,658	30

RECAPITULATION.

NUMBER OF WHITE INHABITANTS.

In the 44 counties of the second class,	359,217
In the 36 counties in the first class,	192,141
Excess in the 44 counties,	167,076

FEDERAL NUMBERS.

In the said 44 counties,	449,154
In the said 36 counties,	304,388
Excess in said 44 counties,	144,766

NUMBER OF VOTES.

In said 44 counties,	53,213
In said 36 counties,	33,264
Excess in the said 44 counties,	9,949

AMOUNT OF TAXES.

Paid by the said 44 counties,	\$79,659 30
Paid by the said 36 counties,	77,766 92
Excess in said 44 counties,	\$1,891 38

The number of Farms in the said 44 counties, compared with those in the 36 counties, would make the contrast still more striking.

Senators from the said 36 counties,	27
Senators from the said 44 counties,	23
Excess of Senators in the said 36 counties,	4

This table shews that there are 44 counties in the State, having a majority of 167,076 white inhabitants, 144,766 in Federal numbers, and paying \$1,891 38, more than half the tax of the whole State, represented by 23 Senators, whilst the other 36 counties are represented by 27 Senators.

[HOUSE DOCUMENT, No. 30.]

A BILL
TO INCORPORATE
THE
ATLANTIC AND NORTH CAROLINA
RAILROAD COMPANY.



RALEIGH:
SEATON GALES, PRINTER TO THE LEGISLATURE.

1852

HOUSE OF COMMONS, Nov. 4, 1852.

[Introduced by Mr. WARD.--Read first time and passed, and referred to Committee on Internal Improvements.]

HOUSE OF COMMONS, Nov. 10, 1852.

[Ordered that the Bill and Amendments proposed be laid, on the table and printed.]

A BILL

To Incorporate the Atlantic and North Carolina Railroad Company.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That for the purpose of effecting a railroad communication between the North Carolina railroad, at or near the town of Goldsboro', and Beaufort harbor, by the way of Kinston, Trenton and Newbern, the formation of a corporate company, with the capital stock of nine hundred thousand dollars, is hereby authorized, to be called the Atlantic and North Carolina Railroad Company, and when formed, in compliance with the conditions hereinafter prescribed, to have a corporate existence as a body politic, for ninety-nine years.

II. That the said company be, and the same is hereby authorized, to construct a railroad commencing at a point at or near the town of Beaufort, in Carteret county, thence by the most practicable route to the town of Newbern, and thence the most practicable route by Trenton and Kinston, to the terminus of the North Carolina Railroad, at or near the town of Goldsboro', in the county of Wayne.

III. That for the purpose of forming said capital stock of said company, the following persons be, and the same are hereby appointed commissioners : Isaac Ramsey, of Carteret county ; Alonzo T. Jenkins, of Newbern ; Lucien J. Becton, of Jones ; William C. Loftin, of Lenoir ;

6 Charles Edwards, of Greene, and Elisha Pipkin, of
 7 Wayne: That it shall, and may be lawful to open books
 8 in the town of Beaufort, under the direction of Richard
 9 Hall, M. F. Arendell, Capt. — Duncan, Josiah F.
 10 Bell, or any three of them; at Newbern, William G.
 11 Bryan, Charles Slover, John Blackwell, John R. Justice,
 12 William H. Washington, George S. Stevenson, Moses
 13 W. Jarvis, Edward R. Stanly, Fred. P. Latham, Israel
 14 Disosway, Hardy B. Lane, Sen., James C. Stevenson,
 15 Henry G. Cutler, Alex. Miller, Alex. Mitchell; at Tren-
 16 ton, Dr. John Shackelford, C. Williams, Benj. Askew,
 17 Joseph Kincey, Sen., Joseph Whitty; at Kinston, Dr.
 18 Thomas Woodley, Jno. C. Washington, Louis Desmond,
 19 Nicholas Hunter; at Goldsboro', W. S. G. Andrews, W.
 20 B. Gulick, Thomas Kennedy, William B. Edmundson,
 21 W. K. Lane; at Waynesboro', Richard Washington,
 22 Dr. Daniel Cogdale; at Smithfield, Wm. H. Watson,
 23 Wm. S. Ballinger, Thomas Lockhart, Wm. H. Morning,
 24 Linn B. Sanders; at Raleigh, Romulus M. Saunders,
 25 George W. Mordecai, W. W. Holden, John H. Bryan,
 26 Edward Yarbrough, Willis Whitaker; at Jacksonville,
 27 Geo. Ward, John M. Franks, John A. Averett, Owen
 28 Huggins; at Swansboro', David W. Sanders, R. McLane,
 29 C. B. Glover, Daniel Hargate, Elijah Furgerson; Joshua
 30 Rann, and Henry H. Harper, of Snow Hill; James
 31 Williams, Henry Beat, and Wm. A. Darken, of Greene
 32 county.

IV. That all who may hereafter be authorized to open
 2 books for subscription of stock, by the commissioners
 3 herein appointed for that purpose, shall open said books
 4 at any time after the ratification of this act, twenty days
 5 previous notice being given in some one or more of the
 6 public newspapers in this State; and, that the said books
 7 when opened, shall be kept open for the space of thirty
 8 days at least, and as long thereafter as the commissioners
 9 first above named shall direct; and, that all subscrip-

10 tion of stock shall be in shares of one hundred dollars,
 11 the subscriber paying at the time of making such sub-
 12 scription, five dollars on each share thus subscribed, to
 13 the person authorized to receive such subscription; and,
 14 in case of failure to pay said sum, all such subscription
 15 shall be void and of no effect; and, upon closing the
 16 books, all such sums as shall have been thus received
 17 of subscribers, on the first cash instalment, shall be paid
 18 over to the general commissioners named in the third
 19 section of this act, by the persons receiving them; and
 20 for failure thereof, such person or persons shall be liable
 21 to said general commissioners before the organization of
 22 said company, and to the company itself after its organ-
 23 ization, to be recovered in the Superior Court of law in
 24 the county where such delinquent resides, or if he reside
 25 out of the State, then in any court of such State having
 26 competent jurisdiction. The said general commissioners
 27 shall have power to call on and require all persons em-
 28 powered to receive subscription, at any time, and from
 29 time to time, as a majority of them may think proper, to
 30 make return of the stock by them respectively received,
 31 and to make payments of all sums made by the subscri-
 32 bers; that all persons receiving subscriptions of stock
 33 shall pass a receipt to the subscriber, for the payment of
 34 the first instalment, as heretofore required to be paid;
 35 and, upon their settlement with the general commis-
 36 sioners, as aforesaid, it shall be the duty of said general
 37 commissioners, in like manner, to pass their receipt for
 38 all sums of money thus received, to the person from
 39 whom received, and such receipts shall be taken and held
 40 to be good and sufficient vouchers to the persons holding
 41 them.

V. It shall be the duty of said general commissioners to
 2 direct and authorize the keeping open of books, for the
 3 subscription of stock in the manner above described,
 4 until the sum of three hundred thousand dollars shall

5 have been subscribed to the capital stock of said com-
 6 pany; and, that as soon as the sum of three hundred
 7 thousand dollars shall have been subscribed, and the
 8 first instalment of five dollars per share on said sum
 9 shall have been received by the general commissioners,
 10 said company shall be regarded as formed; and the said
 11 commissioners or a majority of them shall sign and seal
 12 a duplicate declaration to that effect, with the names of
 13 the subscribers appended, and cause one of the said
 14 duplicates to be deposited in the office of the Secretary
 15 of State; and, thenceforth, from the closing of the books
 16 for subscription as aforesaid, the said subscribers to the
 17 stock shall form a body politic and corporate, in deed
 18 and in law, for the purposes aforesaid, by the name and
 19 style of the Atlantic and North Carolina Railroad Com-
 20 pany.

VI. That, whenever the sum of three hundred thousand
 2 dollars shall be subscribed, in manner and form aforesaid,
 3 the subscribers, their executors, administrators and as-
 4 signs, shall be, and they are hereby declared to be in-
 5 corporated into a company, by the name and style of
 6 the Atlantic and North Carolina Railroad Company,
 7 and by that name shall be capable, in law and equity,
 8 of purchasing, holding, selling, leasing and conveying
 9 estates, real, personal and mixed, acquiring the same by
 10 gift or devise, so far as shall be necessary for the purposes
 11 embraced within the scope, object and intent of this
 12 charter, and no farther; and shall have perpetual suc-
 13 cession, and by their corporate name may sue and be
 14 sued, plead and be impleaded in any court of law and
 15 equity in the State of North Carolina, and may use a
 16 common seal, which they may alter and renew at pleas-
 17 ure; and shall have and enjoy all other rights and im-
 18 munities which other corporate bodies may, and of right
 19 do exercise; and may make all such by-laws, rules and
 20 regulations, as are necessary for the government of the

21 corporation, or effecting the object for which it is created,
 22 not inconsistent with the constitution and laws of the
 23 United States and of this State.

VII. That notice of process upon the principal agents of
 2 said company, or the president or any of the directors
 3 thereof, shall be deemed and taken to be due and lawful
 4 notice of service of process upon the company, so as
 5 to bring it before any court within the State of North
 6 Carolina.

VIII. That, as soon as the sum of three hundred thousand
 2 dollars shall have been subscribed in manner and form
 3 aforesaid, it shall be the duty of the general commis-
 4 sioners, appointed under the third section of this act, to
 5 appoint a time for the stockholders to meet at the town
 6 of Newbern, in Craven county, which they shall cause
 7 to be previously published, for the space of thirty days,
 8 in one or more newspapers, as they may deem proper ;
 9 at which time and place the said stockholders, in person
 10 or proxy, shall proceed to elect the directors of the com-
 11 pany, and to enact all such regulations and by-laws as
 12 may be necessary for the government of the corporation
 13 and the transaction of its business. The persons elected
 14 directors at this meeting, shall serve such a period, not
 15 exceeding one year, as the stockholders may direct ; and
 16 at this meeting, the stockholders shall fix on the day and
 17 place when the subsequent election of directors shall be
 18 held ; and such elections shall henceforth be annually
 19 made ; but, if the day of the annual election should pass
 20 without any election of directors, the corporation shall
 21 not thereby be dissolved, but it shall be lawful on any
 22 other day to hold and make such election in such man-
 23 ner as may be prescribed by a by-law of the corporation.

IX. That the affairs of the company shall be managed
 2 and directed by a general board, to consist of eight di-

3 rectors, to be elected by the stockholders from among
 4 their number, at the first and subsequent general annual
 5 meetings, as prescribed in the eighth section of this act,
 6 until such time as the State may subscribe, when the
 7 State shall be entitled to four directors, to be appointed
 8 by the Governor, by and with the advice of his council,
 9 and four to be elected by the stockholders: that no
 10 one shall serve as a director who is not a stockholder.

X. That the election of directors shall be by ballot, each
 2 stockholder having as many votes as he has shares in
 3 the stock of said company; and the person having a
 4 majority of all the votes polled, shall be considered as
 5 duly elected.

XI. That the president of the company shall be elected
 2 by the directors, from among their own number, in such
 3 manner as the regulations of the company shall prescribe.

XII. That at the first general meeting of the stockholders,
 2 to be called under section eight of this act, a majority
 3 of all the shares subscribed shall be represented before
 4 proceeding to business; and if a sufficient number do
 5 not appear on the day appointed, those who do attend
 6 shall have the power to adjourn from time to time, until
 7 a regular meeting shall be thus formed; and at such
 8 meeting, the stockholders may provide, by a by-law, as
 9 to the number of stockholders and the amount of stock
 10 to be held by them, which shall constitute a quorum for
 11 transacting business at all subsequent regular or called
 12 meetings of stockholders and directors.

XIII. That in all elections, and upon all votes taken in any
 2 general meeting of the stockholders, upon any by-law
 3 or any of the affairs of the company, each share of stock
 4 shall be entitled to one vote, and that any stockholder
 5 in said company may vote by proxy; and proxies may

6 be verified in such manner as the stockholders by by-
7 laws may prescribe.

XIV. That the general commissioners shall make their
2 return of the shares of stock subscribed for, at the first
3 general meeting of stockholders, and pay over to the
4 directors elected at said meeting, or their authorized
5 agent, all sums of money received from subscribers ; and
6 for failure therefor, shall be personally liable to said
7 company, to be recovered at the suit of said company
8 in any Superior Court of law in this State, within the
9 county where such delinquent or delinquents may re-
10 side, and in like manner from said delinquent or delin-
11 quents' executors or administrators, in case of his or their
12 death.

XV. That the board of directors may fill all vacancies
2 which may occur in their body during the period for
3 which they have been elected, and in the absence of the
4 president, may fill his place by electing a president *pro*
5 *tem.* from among their number.

XVI. That all contracts or agreements, authenticated by
2 the president and secretary of the board of directors, shall
3 be binding on the company without a seal, or such a
4 mode of authentication may be used as the company,
5 by their by-laws may adopt.

XVII. That the company shall have power and may
2 proceed to construct, as speedily as possible, a railroad,
3 with one or more tracts, of the same width of the North
4 Carolina railroad, to be used with steam power, which
5 shall extend from the most practicable point at or near
6 the town of Beaufort, in Carteret county, in the manner
7 prescribed in the second section of this act, to the termi-
8 nus of the North Carolina railroad, at or near the town
9 of Goldsboro', in the county of Wayne, and said com-

pany may use any section of the railroad constructed by them, before the whole of said road shall be completed.

XVIII. That the said company shall have the exclusive right of conveyance or transportation of persons, goods, merchandise and produce over the said railroad, to be by them constructed, at such charges as may be fixed on by a majority of the directors.

XIX. That the said company may, when they see proper, farm out their right of transportation over said railroad, subject to the rules above mentioned; and the said company, and every person who may have received from them the right of transportation of goods, wares and produce, on said railroad, shall be deemed and taken a common carrier, as respects all goods, wares, produce and merchandise entrusted to them for transportation.

XX. That the board of directors may call for the payment of the sums subscribed as stock in said company, in such instalments as the interest of said company, may, in their opinion, require: the call for each payment shall be published in one or more newspapers in this State, for the space of one month before the day of payment, and on failure of any stockholder to pay each instalment, as thus required, the directors may sell at public auction, on a previous notice of ten days, for cash, all the stock subscribed for in said company by such stockholder, and convey the same to the purchaser at said sale; and if said sale of stock do not produce a sum sufficient to pay off the incidental expenses of the sale, and the entire amount owing by such stockholder to the company, for such subscription of stock, then and in that case the whole of such balance shall be held and taken as due at once to the company, and may be recovered of such stockholder or

19 his executors, administrators or assigns, at the suit of
 20 said company, either by summary motion in the Court
 21 of superior jurisdiction in the county where the delin-
 22 quent resides, on a previous notice of ten days to said
 23 subscriber, or by action of assumpsit, in any Court of
 24 competent jurisdiction, or by a warrant before a justice
 25 of the peace, when the sum does not exceed one hun-
 26 dred dollars; and in all cases of assignment of stock,
 27 before the whole amount has been paid to the com-
 28 pany, then for all sums due on such stock, both the
 29 original subscribers and the first and all subsequent
 30 assignees shall be liable to the company, and the same
 31 be recovered as above described.

XXI. That the debt of stockholders, due the company
 2 for stock therein, either as original proprietor or as
 3 first or subsequent assignee, shall be considered as of
 4 equal dignity with judgments in the distribution of as-
 5 sets of a deceased stockholder, by his legal representa-
 6 tive.

XXII. That said company shall issue certificates of
 2 stock to its members; and said stock may be trans-
 3 ferred in such manner and form as may be directed by
 4 the by-laws of the company.

XXIII. That the Board of Directors shall once in every
 2 year make a full report on the state of the company
 3 and its affairs, to a general meeting of the stockholders,
 4 and oftener, if required; and shall have power to call a
 5 general meeting of the stockholders, when the board
 6 may deem it expedient; and the company may pro-
 7 vide in their by-laws, for occasional meetings being
 8 called, and prescribe the mode thereof.

XXIV. That the said company may purchase, have and
 2 hold in fee, for a term of years, any lands, tenements

3 or hereditaments which may be necessary for said
 4 road, or the appurtenances thereof, or for the erection
 5 of depositories, storehouses, houses for the officers, ser-
 6 vants or agents for the company, or for workshops or
 7 foundries, to be used for the said company, or for pro-
 8 curing stone or other materials necessary to the con-
 9 struction of the road, or for effecting transportation
 10 thereon, and for no other purposes whatever.

XXV. That the company shall have the right, when
 2 necessary, to conduct the said road across or along any
 3 public road or watercourse: *Provided*, That the said
 4 company shall not obstruct any public road, without
 5 constructing another equally as good and as conve-
 6 nient, nor without making a draw in any bridge of said
 7 road, which may cross a navigable stream, sufficient
 8 for the passage of vessels navigating such stream.

XXVI. That when any lands or right of way may be
 2 required by said company, for the purpose of construct-
 3 ing their road, and for the want of agreement as to the
 4 value thereof, or from any other cause, the same cannot
 5 be purchased from the owner or owners, the same may
 6 be taken at a valuation, to be made by five commis-
 7 sioners, or a majority of them, to be appointed by any
 8 Court of Record having common law jurisdiction in
 9 the county where some part of the land or right of way
 10 is situated. In making the said valuation, the said
 11 commissioners shall take into consideration the loss or
 12 damage which may accrue to the owner or owners, in
 13 consequence of the land or right of way being surren-
 14 dered, and the benefit and advantage, he, she or they
 15 may receive from the erection or establishment of the
 16 railroad or work, and shall state particularly the value
 17 and amount of each; and the excess of loss and dam-
 18 age, over and above the advantage and benefit, shall
 19 form the measure of valuation of the said land or right

20 of way : *Provided, nevertheless,* That if any person or
 21 persons, over whose land the road may pass, shall be
 22 dissatisfied with the valuation of said commissioners,
 23 then and in that case the person or persons so dissatis-
 24 fied, or the President and Directors of the road, may
 25 have an appeal to the Superior Court, in the county
 26 where the said valuation has been made, or in either in
 27 which the land lies, when it may lie in more than one
 28 county, under the same rules, regulations and restric-
 29 tions, as in appeals from judgments of justices of the
 30 peace. The proceeding of the said commissioners, ac-
 31 companied with a full description of said land or right
 32 of way, shall be returned, under the hands and seals of
 33 a majority of the commissioners, to the Court from
 34 which the commission issued, there to remain a matter
 35 of record. And the lands or right of way, so valued
 36 by the said commissioners, shall vest in said company,
 37 so long as the same shall be used for the purposes of
 38 said railroad, so soon as the valuation may be paid,
 39 or when refused, may have been tendered : *Provided,*
 40 That on application for the appointment of commis-
 41 sioners under this section, it shall be made to appear to
 42 the satisfaction of the Court, that at least ten days pre-
 43 vious notice has been given by the applicant to the
 44 owner or owners of land so proposed to be condemn-
 45 ed, or if the owner or owners be infants, or *non com-*
 46 *pos mentis*, then to the guardian of such owner or ow-
 47 ners, if such guardian can be found within the county ;
 48 or if he cannot be found, then such appointment shall
 49 not be made, unless notice of the application shall have
 50 been published at least one month next preceding, in
 51 some newspaper printed as convenient as may be to
 52 the Court House of the county, and shall have been
 53 posted at the door of the Court House, on the first day
 54 at least of the term of said court, to which the appli-
 55 cation is made : *Provided further,* That the valuation
 56 provided for in this section shall be made on oath by

57 the commissioners aforesaid, which oath any justice of
 58 the peace or clerk of the Court of the county in which
 59 the land or a part of it lies, is hereby authorised to ad-
 60 minister: *Provided, further,* 'That the right of con-
 61 demnation herein granted, shall not authorise the said
 62 company to invade the dwelling house, yard or burial
 63 ground of an individual, without his consent.

XXVII. That the right of said company to condemn
 2 lands, in the manner described in the twenty-sixth sec-
 3 tion of this act, shall extend to the condemning one
 4 hundred feet on each side of the main track of the road,
 5 measuring from the centre of the same, unless in case
 6 of deep cuts and filling, when the said company shall
 7 have power to condemn as much in addition thereto as
 8 may be necessary for the purpose of constructing said
 9 road; and the company shall also have power to con-
 10 demn and appropriate lands in like manner, for the con-
 11 structing and building depots, shops, warehouses, build-
 12 ings for servants, agents and persons employed on the
 13 road, not exceeding two acres in any one lot or sta-
 14 tion.

XXVIII. That, in the absence of any contract or con-
 2 tracts with said company, in relation to lands through
 3 which said road or its branches may pass, signed by
 4 the owner thereof or by his agent, or any claimant or
 5 person in possession thereof, which may be confirmed
 6 by the owner thereof, it shall be presumed that the
 7 land upon which the said road or any of its branches
 8 may be constructed, together with a space of one hun-
 9 dred feet on each side of the centre of said road, has
 10 been granted to the said company, by the owners there-
 11 of; and the said company shall have good right and
 12 title thereto, and shall hold and enjoy the same as long
 13 as the same shall be used for the purposes of said road,
 14 and no longer, unless the person or persons owning the

15 said land, at the time that part of the said road which
 16 may be on the said land was finished, or those claim-
 17 ing under him, her or them, shall apply for an assess-
 18 ment of the value of said land, as herein before directed,
 19 within two years next after that part of the said was
 20 finished ; and in case the said owner or owners, or those
 21 claiming under him, her or them, shall not apply within
 22 two years next after said part was finished, he, she, or
 23 they, shall be forever barred from recovering said lands
 24 or having any assessment or compensation therefor :
 25 *Provided*, That nothing herein contained shall affect
 26 the rights of *feme covert*s or infants, until two years
 27 after the removal of their respective disabilities.

XXIX. That all lands not heretofore granted to any
 2 person, nor appropriated by law to the use of the State,
 3 within one hundred feet of the centre of said road,
 4 which may be constructed by the said company, shall
 5 vest in the company as soon as the line of the road is
 6 definitely laid out through it, and any grant of land
 7 thereafter shall be void.

XXX. That, if any person shall intrude upon the said
 2 road, by any manner of use thereof, or of the rights
 3 and privileges connected therewith, without permission
 4 or contrary to the will of said company, he, she, or
 5 they may be indicted for a misdemeanor, and upon
 6 conviction thereof, fined and imprisoned by any court
 7 of competent jurisdiction in this State.

XXXI. That every obstruction to the safe and free pas-
 2 sage of vehicles on the said road or its branches, shall
 3 be deemed a public nuisance, and may be abated as such
 4 by any officer, agent or servant, of said company ; and
 5 the person causing such obstructions may be indicted,
 6 and punished for erecting a public nuisance.

XXXII. That the said company shall have the right to
 2 take at the storehouses they may establish, or annex to
 3 their railroad or the branches thereof, all goods, wares,
 4 merchandise and produce, intended for transportation,
 5 prescribe the rules of priority and charges, and receive
 6 such just and reasonable compensation for storage, as
 7 they by rules may establish, (which they shall cause to
 8 be published.) or as may be fixed by agreement with
 9 the owner, which may be distinct from the rules of
 10 transportation: *Provided*, That the said company shall
 11 not charge or receive storage on goods, wares, mer-
 12 chandise or produce, which may be delivered to them
 13 at their regular depositories for immediate transporta-
 14 tion, and which the company may have power to trans-
 15 port immediately.

XXXIII. That the profits of the company, or so much
 2 thereof, as the general board may deem advisable, shall,
 3 when the affairs of the company will permit, be semi-
 4 annually divided among the stockholders in proportion
 5 to the stock they may own.

XXXIV. [That, whenever it shall appear to the Board of
 2 Internal Improvements, by the certificate of the treas-
 3 urer of the said company, and countersigned by their
 4 president, that three hundred thousand dollars has been
 5 subscribed for and taken, and that five hundred dollars
 6 has been paid on the stock, to the treasurer of the said
 7 company, in cash or in labor performed on said road,
 8 and accepted by said company, the board of internal
 9 improvements are hereby authorized and required to
 10 subscribe on behalf of the State, for stock in said com-
 11 pany, to the amount of five hundred thousand dollars,
 12 to the capital stock of the said company, which sub-
 13 scription in behalf of the State shall be paid for as fol-
 14 lows, to-wit: four hundred and seventy-five thou-
 15 sand dollars in the stock of the Raleigh and Gaston Rail-
 road.

16 Company—the transfer and assignment of the said stock
 17 to be made by the Governor under the seal of the State,
 18 to the president and directors of the said Atlantic and
 19 North Carolina Railroad Company, and their assignees:
 20 *Provided*, That the State shall not be held responsible
 21 for any discount which may arise from the sale of said
 22 stock, but the same shall be taken at par value in pay-
 23 ment of the State's subscription; and the further sum
 24 of twenty five thousand dollars of the capital stock of
 25 the Fayetteville and Western Plank Road Company,
 26 the transfer and assignment of which said stock to be
 27 made by the Treasurer of the State to the president
 28 and directors of the said Atlantic and North Carolina
 29 Railroad Company, and their assignees.]

XXXV. That, in order to raise the sum of three hun-
 2 dred thousand dollars, as herein authorized to be sub-
 3 scribed by individuals, it shall also be lawful for any
 4 corporation or county within this State to subscribe
 5 for stock in said company: *Provided*, The said corpo-
 6 ration or county be authorised to subscribe in manner
 7 as hereinafter directed and provided.

XXXVI. That, in order to enable the corporate authori-
 2 ties of any town to subscribe for stock in said company,
 3 it shall be the duty of said corporate authorities of such
 4 town to make an order stating the sum proposed to be
 5 subscribed, and then to submit the question of subscrip-
 6 tion or no subscription to the qualified voters in said
 7 town, on such terms and in such form as the authorities
 8 may prescribe, and if a majority of the inhabitants of
 9 said town, qualified to vote for town officers, shall vote
 10 in favor of such subscription, then the corporate author-
 11 ities shall appoint a suitable agent to make the same,
 12 and to represent said corporation in all such meetings
 13 & as may be held of the stockholders of the said railroad
 14 company.

XXXVII. That, in order to enable said corporate authorities to raise the funds necessary to pay their subscription, it shall be lawful for said authorities, by their duly appointed officer, to cause their bonds to be issued, payable to the president of said company, on a credit of not exceeding twenty years, with interest payable semi-annually, at the rate of six per centum; which bonds shall be endorsed by the Treasurer of the State, upon the express condition that the authorities of such town or corporation shall annually levy and collect such an amount of taxes as may be sufficient to pay the interest on said bonds, and gradually to pay off and discharge the principal; and on their failure so to provide, it shall be lawful for the General Assembly to levy and collect such amount of taxes on the property and persons of such inhabitants, in said town or corporation, as shall be sufficient to pay off both principal and interest on such bonds.

XXXVIII. That it shall be lawful for the Justices of the Court of Pleas and Quarter Sessions, at the first court which they may hold, after the first day of next, for the counties of Carteret, Craven, Jones, Lenoir, Wayne, Greene, or any contiguous county to said railroad, a majority of the Justices being on the bench, to decide on the amount to be subscribed to said railroad company, in behalf of their county, and to make the necessary orders for submitting the question of subscription or no subscription to the voters of their respective counties, who may be entitled to vote for members of the House of Commons for the General Assembly, and if a majority shall decide in favor of subscription, it shall be the duty of the sheriff, under whose authority the polls are to be held, to make return thereof within five days after any such vote, under the same penalties as are now prescribed by law in regard to members of the General Assembly, to the chairman of

19 their County Courts, whose duty it shall be to call to-
 20 gether the Justices of the Peace of said county, a ma-
 21 jority of whom shall be authorized and required to ap-
 22 point an agent to subscribe for the number of shares in
 23 the stock of said company, which he shall be authorized
 24 to do by the order of said court, and thereafter to rep-
 25 resent the stock of such county in all general meetings
 26 of the stockholders ; which agent it shall be competent
 27 for the Justices to change, as to them shall seem proper.

XXXIX. That, to enable the Justices of the said County
 2 Courts to raise the sum necessary to pay said subscrip-
 3 tion, it shall be lawful for said Justices to pass the neces-
 4 sary order, which shall be placed on record, for issuing
 5 bonds for the amount subscribed, on a credit of not
 6 exceeding twenty years, bearing interest at six per cent.
 7 payable semi-annually, to the president of said railroad
 8 company, which bonds the Treasurer of the State is
 9 hereby directed to endorse, pledging the State to their
 10 payment, upon the express condition, that the Justices
 11 of said county shall annually levy and collect a tax on
 12 the property and persons of the inhabitants of said county
 13 sufficient to pay the interest on said bonds, as well as
 14 whatever sum shall be deemed necessary for the gradual
 15 payment of the principal ; and on their failure so to
 16 provide, it shall be lawful for the General Assembly to
 17 levy and collect such an amount of taxes on the persons
 18 and property of the inhabitants of such county as shall
 19 be sufficient to pay off both principal and interest on
 20 such bonds.

XL. That the president and directors of the Neuse
 2 River Navigation company, be, and they are hereby
 3 authorised, by and with the consent of a majority of
 4 the stockholders of said company, in general meeting
 5 assembled, to subscribe, in the name and on behalf of
 6 said company, for such an amount of the capital stock

7 of the Atlantic and North Carolina Railroad company,
 8 as they may think proper, to be paid for in the stock of
 9 said Neuse River Navigation company, the transfer
 10 and assessment of said stock to be made by the presi-
 11 dent and directors of the said Neuse River Navigation
 12 company, under the corporate seal of said company.

XLII. That the president and directors of the several
 2 banks of this State, by and with the consent of a ma-
 3 jority of the stockholders thereof, respectively, shall
 4 have power and authority to subscribe, in the name and
 5 on behalf of their corporation, respectively, for such an
 6 amount of the capital stock of the Atlantic and North
 7 Carolina Railroad company, as they may think proper.

XLII. That whenever the said company shall have
 2 expended the sum hereinbefore authorised, in the con-
 3 struction of said railroad, and the said sum should
 4 prove insufficient to complete the same, and to furnish
 5 the necessary cars, engines and station houses, it shall
 6 be the duty of the General Assembly, at its next bien-
 7 nial session, to authorise and direct a further subscrip-
 8 tion to the stock of said company, of one hundred thou-
 9 sand dollars, to be paid for in such State stock as the
 10 General Assembly shall then order and direct, which
 11 shall form the capital stock of said company. And if
 12 that sum shall prove insufficient to complete and stock
 13 the said road, the company may at any time increase
 14 its capital to a sum sufficient to complete said road,
 15 not exceeding one hundred thousand dollars, so as to
 16 make the total capital one million of dollars, either
 17 by opening books for new stock, or by borrowing mo-
 18 ney on the credit of the company, and on the mortgage
 19 of its charter and works, as the stockholders, in general
 20 meeting, shall direct.

XLIII. That the board of internal improvements may
 2 appoint some suitable person to represent the interest

3 of the State, in all general meetings of the stockhol-
4 holders, who shall have the right to vote on all ques-
5 tions, and to enquire into the condition of the company,
6 except in the election of the directors to be appointed
7 by the individual stockholders.

XLIV. That in case of domestic invasion or insurrec-
2 tion, the company shall transport the troops and muni-
3 tions of war of the State, free of charge.

XLV. That the following officers and servants and per-
2 sons in the actual employment of said company be, and
3 they are hereby exempt from the performance of jury
4 and ordinary military duty: the president and treasurer
5 of the board of directors, and the chief and assistant
6 engineers, the secretaries and accountants of the com-
7 pany, keepers of the depositories, guards stationed on
8 the road to protect it from injury, and such persons as
9 may be working locomotive engines, and travelling
10 with cars for the purpose of attending to the transport-
11 ing of produce, goods and passengers on the road.

XLVI. That all the works hereby required of the Atlantic
2 and North Carolina Railroad Company shall be execu-
3 ted with due diligence, and if the said road be not com-
4 pleted within six years after the ratification of this act,
5 this charter shall be forfeited.

R E P O R T
OF COMMISSIONERS TO REVISE
AND DIGEST THE PUBLIC STATUTES.

*To the Honorable the General Assembly of the
State of North Carolina.*

The undersigned, two of the commissioners, appointed by the Governor, to revise and digest the laws, in pursuance of the Act of the last session of the General Assembly, entitled "an Act for revising and digesting the public Statute Laws of the State," beg leave to report :

In conjunction with R. M. Saunders, Esq., they received their appointment in June 1851, and immediately apportioned among themselves the entire body of the chapters of "the Revised Statutes."

The first step was the preparation of tables or indexes, by which the statutes, passed since 1836, might be digested under their appropriate chapters. As many of these statutes embraced subjects, properly distributable among different chapters of the Revised Statutes, it became necessary, not only carefully to dissect their several parts, but to select the most fitting place for their consolidation with the chapters of the Revised Statutes.

This was a work of considerable labor, and obviously indispensable, both for proper arrangement and to prevent omission of any part of the law.

This preparation having been made, they set about revising and digesting the Statutes. In the prosecution of this part of the work, they regarded it as their duty, not only to consolidate the acts passed since 1836, with those then revised, but, also, to revise the language of all the statutes, and expunge much unnecessary verbiage which often clogs the expression, and not unfrequently obscures the meaning of our laws.

They did not deem that their work would be acceptable, by simply collecting and reducing into one chapter, the statutes passed at different times upon the same subject matter, after the manner of a condensed compilation; but they thought it best, and expected, too, of them, that they should consolidate them so as to give to them the character of the unity of one enactment, thereby much abbreviating the law and effecting, if possible, the directions of the Legislature, to compress the whole into one volume.

This work of collation, consolidation and condensation, they believed they could best perform, each one by himself; and they prosecuted it in this manner till June last, when, having nearly completed, each one, his several task, they met in this city to submit the whole to a joint revision.

This part of the work required the united presence and action of all the commissicners. After this should have been completed, next was to follow the reference to the statutes revised, and to the decisions of the Supreme Court on the statutes. Then was to be prepared the index, a work requiring both time and care: and then each chapter, as revised, was to be printed for the examination and action of the Legislature. There was no provision for this important part of the work; but the commissioners had determined to procure it, if this had been the only obstacle to the completion of their labors,—leaving the compensation entirely to the Legislature. In July last, while engaged in

their labors, they were assured by one of the commissioners, who had participated in the revision of 1836, that the printing and revision of the proof would require about three months. Having no reason, on reflection, to doubt the act, they were made sensible at once, of the impracticability of attempting to present the work at this session of the Legislature; and R. M. Saunders, Esq., having resigned his place in the board, no further progress has been made in the joint revision since the idea of completing the work was abandoned.

The plan with which the revision had been commenced and was to be prosecuted, required time for its accomplishment; and that time was not to be had, unless all the commissioners had convened together and devoted themselves, without intermission, to the work. They did not suppose that it was expected of them, that they should abandon their profession altogether—a course which had been highly unjust to their numerous clients, and attended with great individual sacrifice to themselves.

In truth, however, the undersigned did believe, when they accepted the commission, that they could perform the work in time for the present session of the General Assembly, and were not convinced to the contrary till they convened during the past summer.

They deeply regret the delay and the public disappointment, but they are assured that a due regard to the public interest fully justifies that delay. They could not have been persuaded to offer to the Legislature a work with which they would have been so little satisfied themselves, as that which could have been prepared by them, (even if they had the power to have prosecuted it in the absence of a third commissioner,) after the information given to them of the length of time necessary for the printing.

In conclusion, they suggest, that if the Legislature shall deem it advisable to authorize a continuance of the commission, some provision be made for printing the statutes, as revised, before presenting them for legislative action.

Although not, perhaps, strictly a part of their duty, they endeavored to get the materials for ascertaining the boundaries of the several counties of the State; and for this purpose, they addressed a letter to the chairman of the County Court, the county solicitor, and clerk of the county court of every county in the State.

A copy of the letter is herewith reported.

It is exceedingly desirable that the boundaries of our counties should be accurately ascertained. The reasons are so obvious, that they need not be mentioned here.

They intended, if they had been successful, to have laid the information before the Legislature; but as yet, they have received replies from only three or four counties, and they have no reason to expect further information. In doing this, they have incurred a small printing and postage bill, which will be presented during the session for payment, if it may please the Legislature to allow it.

Respectfully submitted.

ASA BIGGS, }
B. F. MOORE, } Commissioners.

November 10, 1852.

RALEIGH, December 12, 1851.

*To the Chairman of the County Court, County Solicitor,
and Clerk of the County Court of County :*

We find it impracticable, from the materials accessible to us, to ascertain the boundaries of the counties. We desire to attain as much accuracy as possible, and now address you, with the hope that you will give us all the aid you can as to the boundary of your county; and, if necessary, that you will submit the matter to your Court. If the boundary is well ascertained, please inform us what part of it, and how ascertained? If any portion is not yet ascertained with accuracy, state the same particularly. We desire you to furnish us the boundary of your county from the best information in your power, as early as practicable, and at farthest during the next Summer, with any suggestions you may think proper to make, preparatory to the Report we expect to make to the next General Assembly. As it is important, for many reasons, that the boundary of your county should be settled and known, if not already done, we suggest the propriety of having the same ascertained under the direction of the Court.

Your particular attention is requested, and will much oblige,

Your obedient servants,

R. M. SAUNDERS,

B. F. MOORE,

ASA BIGGS,

Commissioners to Revise the Statutes.

[HOUSE DOCUMENT, No. 32.]

CAPE FEAR AND DEEP RIVER
NAVIGATION COMPANY.

*To the Honorable the General Assembly of the
State of North Carolina:*

I herewith transmit the Report of the President and Directors of the Deep River Navigation company, to which I invite the favorable consideration of the General Assembly.

DAVID S. REID.

EXECUTIVE DEPARTMENT, }
Raleigh, Nov. 13, 1852. }

A MEMORIAL.

To the General Assembly of North Carolina :

The undersigned memorialists would respectfully represent, that at a meeting of the stockholders of the Cape Fear and Deep River Navigation Company, held in July last, they were appointed a committee on behalf of the stockholders, to memorialize your honorable body, in regard to an increase of the capital stock, and a further subscription on the part of the State to said company, and for a modification of the charter for these and other purposes.

They respectfully represent that the Cape Fear and Deep River Navigation Company was chartered in 1848'-49, with a capital of \$200,000, of which sum the State became a subscriber to the amount of two-fifths, or \$80,000, and the remaining three-fifths were taken by private stockholders, amounting to \$120,000; that under the charter, the company went to work and entered into contracts for its completion, by the 1st of January, 1852; that the contractors for the principal portion of the work, failing to comply with the terms of their contract, as to the time specified, and for other reasons, their contract was declared abandoned, since which period the work has been progressing on account of the company, under the immediate supervision of its officers; and they further respectfully represent, that the chief engineer's report shows the work to be in a favorable state throughout its length; that so far as completed it fulfils all the conditions claimed for it, and also that in the course of

its construction, for reasons set forth in that report, (herewith annexed,) in order to insure a certain and reliable navigation at all seasons of the lowest summer water, it has been found necessary to construct an additional number of locks and dams; that all the lock chambers have been lengthened, and the lower ones widened out, and an amount of additional work executed, beyond what was originally contemplated, to enlarge its usefulness, which necessarily increases the amount originally contemplated in the capital stock.

Your memorialists, therefore, humbly pray that the capital stock may be increased to \$350,000; that influenced by the patriotism which prompted a subscription of two-thirds to the other State works, chartered at the same time with this, which seemed but a two-fifths subscription on the part of the State, you will extend your favor to this so far as to increase the State's subscription \$130,000, which will make the State's interest in the stock of the company three-fifths, or \$180,000, and that of individuals two-fifths, or \$120,000, with the privilege of issuing bonds based upon the work for any contingency that may arise hereafter.

Your memorialists respectfully represent, that the history of the public works of this country, and so far as they are informed, that of all other countries, shows that no where has an improvement been constructed of a similar character to this, affording for 100 miles a reliable navigation at all seasons for steamboats of 130 tons, which has not cost many times the capital required for the completion of this; a railroad for the same extent could not be put in operation, rolling stock included, for a less sum than \$1,500,000, nor has there been a railroad, canal or river improvement of the same extent, which has not required an amount over and above what was first thought necessary for their completion, much greater than the additional amount required in this case. Considering, then, the comparatively small amount required for the construction of a work, destined to confer such great blessings as this assuredly will, upon so large a

portion of the territory of the State, in the extreme agricultural region to be benefitted by it, in the vast country it will open for making naval stores, timber and lumber, and also the fact of its penetrating the great coal region of the State, the daily increasing demands for which mineral are so far outstripping the supply, that this interest alone would have warranted the expenditure of the capital stock. From these various considerations, your memorialists are constrained to the belief, that this must prove a paying stock, and in corroboration of this opinion, and that your honorable body may more clearly appreciate the vast resources of the region drained by this improvement, they submit for your consideration, the following statistics, showing the probable amount of tolls that would be collected from the work when completed, as compared with the probable yearly expenses.

In this statement, the census tables of 1840 have been used for the grains, *in surplus*, over home consumption, for the counties bordering upon the improvement; and for naval stores, timber and lumber, information has been obtained, in part, from a table prepared by the present timber and lumber makers, and such additions made for the additional country opened for the production of those articles, as is believed to be entirely within the amount, when truly ascertained.

Probable yearly expenses, including the pay of lock keepers, say \$10,000

Wheat, 153,000 bush'ls, equal to 3,825 tons.

Oats, 57,000 do do 814 do

Corn, 207,000 do do 4,600 do

Total of tons, 9,239

Supposing this to pay a toll of 1 per cent. per ton, per mile, it would yield, for fifty miles, (the distance being 100 miles.)

4,619 50

Rosin and raw materials, say 250,000 bush. at 6 cents,

15,000

Spirits, say 50,000 at 10 cents,

5,000

Timber, (which is now 19,160,000 feet,) we will say, 30,000,000 feet, at a toll of	10,000
Lumber, (which is now, 7,560,000,) we will say 15,000,000,	5,000
	<hr/>
	\$39,619 50
To which must be added, the probable amount of up freight, 1-10th,	3,971
	<hr/>
	\$43,580 50

Which will make the receipts, after deducting expenses, \$33,580, a fraction over 11 per cent upon a capital of \$300,000. But in this estimate, it should be remarked that many articles have not been enumerated, upon which toll would be collected, nor has any allowance been made for the increased production in the quantity of grain, growing out of good markets and quick returns, nor have we considered the receipts from tolls on account of coal, which will pay more to the work than all of the other products together. We are informed that one mine, properly worked, at a fair yield, would produce 100,000 tons per annum. Say that there were three such, yielding 300,000 tons per annum, (there would probably be several more.) The toll upon this amount, at twenty cents per ton, would be \$60,000, and that this may not be considered an extravagant estimate, your honorable body need only turn to a Pennsylvania paper, to ascertain the fact, that upon two improvements, the Schuylkill Navigation and the Reading Railroad, together, the delivery of coal, *monthly*, is much greater than is assumed for the business of one year upon the Cape Fear and Deep River improvement.

Your memorialists would further respectfully represent, that while the granting of this prayer would insure the completion of this great State work, in which the State is equally interested with the other stockholders, and infuse vigor into the cause of internal improvements throughout its length and breadth, by which alone her great internal resources can be developed,—a rejection of it would be

fatal to the Cape Fear and Deep River Navigation Company, and necessarily force a sale of the work.

Influenced by the above considerations, as well as by that State pride which they believe to pervade the breast of every true North Carolinian, your memorialists respectfully and cheerfully submit their prayer to the enlightened wisdom and intelligence of your honorable body, with the full conviction that, in its consideration, patriotism and the true interests of the State will alone predominate.

Respectfully submitted, by

Your obedient servants,

FRED. A. HILL,

HUGH WADDELL,

A. J. DeROSSETT, Jun.,

HENRY ELLIOTT,

J. H. HAUGHTON,

A. S. McNEILL,

Committee.

REPORT

*Of the President and Directors of the Cape Fear
and Deep River Navigation Company, to the
Governor.*

SIR:—The President and Directors of the Cape Fear and Deep River Navigation Company beg leave to submit the following Report touching the affairs of the Company.

Immediately after its organization, the Board advertised for proposals for constructing the work which resulted in the contract being taken upon the Cape Fear, and in part at Pullin's Falls on Deep River, by Messrs. Solo. McCullough and T. Hunter, who accordingly entered into bond, with approved securities, as prescribed by the charter, for the faithful execution of the work ; and also entered into written contracts, specifying the manner in which the work should be executed ; and, among other things, it was stipulated, that the work undertaken by them should be completed by the first day of January last. This contract and bond were executed in November, 1849 : and, in the month of December, 1850, both the contractors left the work and returned home, where they have remained.

When the contractors abandoned the work, they left it in the hands of other persons, to whom, in express violation of their contract, they sub-let it. Some short time after their departure, they were urged, through the Chief Engineer by our instructions, to return to the work, and were told, again and again, that it must be prosecuted with more energy ; and, in the spring of 1851, they were distinctly in-

formed, that, unless they immediately returned and prosecuted the work, according to the spirit of their contract, they would be discharged.

These appeals, made from a desire to protect the interests of the Company, and at the same time to avoid a rupture with the contractors, had no effect whatever ; and thus it became incumbent on the Board to put an end to the contract, as necessary for a more speedy execution of the work. Accordingly, on the first of January last, they were discharged. As soon as this was done, the contractors applied to be restored, or to be allowed the 20 per cent. which had been reserved according to their contract as a guaranty in addition to their bond, for the faithful execution of the work. The Board felt bound to decline both propositions, not only for the reasons before assigned, but because they believed, by their delay, loss of timber, and other mismanagement of the contractors, the Company had sustained a loss exceeding the sum total of the 20 per cent. This refusal on our part, to accede to what we considered an unjust demand, was likely to result in protracted and vexatious litigation on both sides ; and it was therefore proposed to the contractors to refer the matters in difference to arbitration ; which was accordingly done : and, after a laborious investigation, the arbitrators, to wit, Messrs. Norwood, Gilmer and Ashe, three gentlemen of the bar of high distinction, rendered an award of \$17,929 83 in favor of the contractors, and the sum of \$11,429 83 in favor of the Company, for damage sustained by them ; thus leaving a balance due the contractors of \$6,500 ; of which sum \$2,500 has been paid in stock, and \$4,000 in cash, and a release of all claims against the Company executed by them. Thus it appears that, had we acceded to their demand of the 20 per cent., independent of any claim upon them on our part, it would have been a gratuitous surrender of \$11,429 83 of the Company's money.

It was also declared by the arbitrators, that the Company had performed their part of the contract, and the con-

tractors had not. It is due to truth to say that the Board used every exertion to aid the contractors in their operations. They received their monthly pay regularly, and very often at great hazard on the part of the President and Directors, who, from time to time, borrowed, upon their own individual responsibility, large sums. It has sometime since been apparent, that the present capital stock of the Company was not sufficient to complete this great work, for reasons set forth by the Engineer in his Report herewith submitted. It becomes our duty most respectfully to suggest an increase in the capital stock to \$350,000; and to appeal to the liberality and patriotism of the Legislature for such relief as their wisdom may suggest.

We are aware that disappointment has been felt and expressed at the progress of the work. It is due to ourselves to say, that, but for us, infinitely less would have been done; for, upon our credit has the work been mainly sustained for some time past, which has involved us in heavy liabilities in conjunction with the Company, either as endorsers or lenders, the amount of which is \$70,000; a detailed statement of which you will learn from the proper department.

These liabilities were incurred principally by the Directors, and in part by the Stockholders, individually, because it was indispensable, not only to the safety, but, in many cases, to the very existence of the work. It must be borne in mind that a work of this character cannot be suspended at pleasure; but that, whenever a lock or dam is begun, it must be completed; otherwise, it is liable to be swept away, and the materials lost to the company. We, therefore, had no alternative left to us but to go forward with this improvement, in order to save what had been begun, and also to avail ourselves of the low state of the water. Believing, therefore, that the best interests of the Company required us to pursue this course, we determined to adopt it, relying upon the liberality of the Legislature to extend to us, and the work, such relief as the justice of the case might

call for, and as had been extended to other works projected at the same session.

In order that the true state of our work may be seen, as well that which is completed as that which is to be done, we herewith submit a detailed statement marked C., by which it will appear that a very large proportion of the improvement is now completed, and that yet to be done will probably cost \$80,000 ; which, added to the actual cost of the work, beyond the capital stock, (to wit, \$70,000,) will amount to \$150,000 ; and thus is rendered apparent the necessity of increasing the capital stock that amount.

That the work is entirely practicable, does not admit of a doubt ; for, wherever the locks and dams have been completed, even during the unprecedented drought of '51, there has been an abundant supply of water in the pools, with a full flow from one extremity of the dam to the other. And that the works can resist the heaviest freshets, has been fully tested. Nor do we entertain a doubt that the stock will be among the most productive in the country : to prove which, we beg leave to refer to a table of statistics embraced in the preceding memorial.

In conclusion, we beg leave, most respectfully, but earnestly, to suggest, that, unless relief shall be afforded by the Legislature, this great enterprise, upon which the hopes of so many good citizens have been placed, must be abandoned ; and thus will be lost to the State, and the individual stockholders, the whole amount of the money thus invested, with no benefit whatever. From such a dire calamity, from such a painful termination of our bright anticipations for the future, we sincerely hope to be delivered.

All of which is respectfully submitted,

ISAAC CLEGG, President.	
J. H. HAUGHTON,	} Directors.
ELIAS BRYAN,	
P. G. EVANS,	
L. J. HAUGHTON,	
HENRY ELLIOTT,	

To His Excell'y, Gov. REID.

(C.)

*Statement of the condition of the work in the Cape Fear
and Deep Rivers, up to the 10th December, 1852.*

JONES' FALLS.

The dam is raised to its full height, and finished with the exception of gravelling. It backs the water now on the mitre sill, at silver run, to the depth of 4 1-4 feet. Allowing for the settling of the dam, and the decrease of water in summer, there will be at the lowest stage of the river, 3 1 2 feet on the mitre sill. The dam backs the water nearly 10 miles.

The lock is finished. There are some defects in the work in consequence of the neglect of the contractors, which are now being remedied. It will be ready for the passage of boats in a few days. The next work in succession is the

SILVER RUN LOCK AND DAM.

This work is finished, and backs the water to the

RED ROCK DAM AND LOCK.

The lock and dam are finished. Some additions are being made to the dam, which, however, will not interfere with the passage of the boats, &c, when the water shall have attained its usual winter height, by which they will be enabled to reach the Jones' Fall Dam from Fayetteville. The water on the mitre sill here is nearly 4 feet in depth. This work backs the water to the

HAW RIDGE DAM AND LOCK.

This work is finished. The water here is about 3 1-4 feet on the mitre sill. This work backs the water to the

GREEN ROCK DAM AND LOCK.

This work is finished, and backs the water to the

NARROW GAP DAM AND LOCK.

This work is finished, with the exception of a very small amount of sheeting and gravelling. It however backs the water to the

SHARPFIELD DAM.

This work is nearly finished. The lock gates are now hung and rafts pass through. The dam will be finished by the 20th or 25th of this month. It is now at its full height, and is being spiked.

The next work is the

McALLASTER LOCK AND DAM.

The lock is nearly finished. The gates are being hung, and the lock will be ready for the passage of rafts and boats on the 20th of this month. The dam is at its full height, and is finished with the exception of the purloins, sheeting and gravelling.

The next work is the

FOX'S ISLAND LOCK AND DAM.

The dam is up to its full height, and is ready for the sheeting and gravelling. The lock is within three feet of its full height. The present force, 17 men, will finish the lock for the passage of boats by the first of January.

The next work is the

NORRINGTON LOCK AND DAM.

The dam is within 2½ ranges or 3 feet of its height. The lock is at its full height, and is ready for the gates and hollow quoins. It will be ready for the passage of boats by the first of January.

The next work is the

BATTLE'S FALLS LOCK AND DAM.

The dam is within 1 range of its full height, or 1 1-2 feet. One of the lock walls is at its full height, and the other is within 3 ranges, or 4 1-2 feet of its full height. With 30 hands this work can be finished in six weeks.

The next work is the

BUCKHORN CANAL, &c.

This work consists of 3 locks, 4 sloo dams, and a dam over the main river; also, a canal and embankment on the islands. Two of the locks are up to their full height. One of them is finished, with the exception of hanging the gates; the other is up to its full height, and requires some sheeting and packing. The foundation for the third lock is nearly ready. The gates are all ready to be hung.

The main sloo dam is up to its full height, and is ready for the purloins and sheeting. The 2d sloo dam is up to its full height, and ready for the sheeting and purloins. The 3d sloo dam foundation is in. The 4th (about 50 feet in length,) is not yet commenced.

The dam in the main river is not yet commenced.

The canal is finished, and the embankments are made.

The next work is the

PULLEN'S FALLS WORK.

And consists of 5 locks, 3 dams, and a canal half a mile in length.

The outlet lock is about half finished.

The 2d lock is at its full height, and requires only the sheeting and the gate.

The 3d lock not commenced. It is, however, a very low lock, and can soon be finished.

The 4th lock is finished, and ready for the reception of the hollow quoins and gates.

The fifth lock coffer dam built, but the lock not commenced.

The canal about half finished.

The first dam not commenced.

The second dam about one-third finished.

The next work is that at

CLEGG'S MILLS.

This work consists of two locks and one dam. One lock is finished, the other is 3-4 done. The dam is ready for the sheeting. The succeeding work

CLEGG'S AND EVANS' LOCK AND DAM.

The lock is at its full height, and nearly finished ; the dam at its full height, and ready for the sheeting.

THE GULF LOCK AND DAM.

The lock is up to its full height and ready for the Gates.
The dam about half done.

EVANS' MILLS.

This work consists of only one Lock which is at its height, and ready finished.

could be brought to adopt such an organization, as in my opinion was necessary to complete their contract in any reasonable time.

Your honorable body, seeing no prospect of any amendment in the above particulars, on the part of the contractors, very properly allowed the contract to expire by its own limitation on the 1st January, 1852.

This course was rendered necessary and important, as showing that the board were determined no longer to be trammelled in their efforts to hasten forward the work, but by taking it in their own hands, to hasten it on to completion, by all the means at their command.

It affords me great satisfaction to be able to state, that since the execution of the work has been assumed by the company, it has progressed much more satisfactorily, not only as to the amount executed, as compared with an equal period previous to the abandonment, but also in the quality and execution of every part of the work.

Considerable expenditures have been incurred by the company, in consequence of defective work executed under the contract.

A thorough examination into all parts of the work has brought to light the defective parts, and such precautionary structures have been raised, and are in course of erection, as will, in my opinion, insure the entire safety of the different works upon the line.

Under the present organization, with the aid of my energetic Principal Assistant, Clement Smith, Esq., and where the different foremen are directly responsible to the company for their work, *with no intermediate interest to serve*, I feel entire confidence in the thorough execution of the work in all its details; and although disappointments have occurred as to the time of its completion, the satisfactory reflection presents itself, that, when done, the work will possess a more permanent and durable character.

In this connection, it is my deliberate opinion, founded upon the experience of the past, that, in the execution of a

work of this character, where so much depends upon entire fidelity of execution, that it is greatly to the interests of the company to execute the work on its own account through proper foremen. For, when a work is contracted out, the contractor looks to his foreman to make him a large monthly estimate: if he fails to do this, the contractor complains, and to avoid those complaints, the foremen often hurry over their work, neglecting material parts upon which its security depends.

It is therefore apparent that when a work is contracted out, a larger corps of engineers and agents are necessary for the protection of the company's interest, than would be required, if built on company account. With slave labor, under the present organization, I am satisfied that the work can be executed more faithfully and at less cost.

The capital stock of the company, as is known, is \$200,000. Upon the original plan of the work, this sum would have been ample, it is believed, for its completion.

That plan is set forth in the original report to the commissioners, and called for lock chambers, 100 feet long, by 18 feet wide. The report also called for 21 locks, including 3 guard locks and 15 dams. Under the plan upon which the work has been constructed, the lock chambers are 118 feet long, by 18 feet wide, and the three lower locks are widened out to 24 feet, to accommodate the lower Little River lumber interest. The number of locks have been increased to 25, including 3 guard locks, and the number of dams to 19.

The reasons for a change in the lock chambers were set forth in former reports, as also the fact that aprons to the three lower dams would be required for their security.

The additional number of locks and dams were found to be necessary, in consequence of the river not being at its low summer stage, when I made the original survey: although it was represented to me by the residents upon the river that it was so. I had no other means of determining this fact, as the time allowed me for the survey and estimate

was limited, and the time close at hand when the Legislature was to assemble, and when the report and estimate was to be handed in. At that time, in the then stage of the water, there were long stretches of the river, some of them eight and ten miles in length, requiring nothing more to be done to afford a navigable depth of three feet of water, than the cost of removing a few rocks from the channel. Since the work has been in course of construction, a lower stage of water has been found to prevail in summer, and consequently these long stretches of the river above alluded to could not be used, and hence additional dams and locks became necessary to afford the requisite depth and insure a reliable navigation at all times.

I stated in a former report the sum which would be required for the lengthening and widening of the locks, coupled with the proviso, that no unforeseen difficulties should be met with in the lock foundations. Difficulties have been met with in this respect; the amount of additional blasting in lengthening and widening the locks was found to be more than was anticipated, and the necessary increased length of the copper dams, requiring a greater extent of water, light dam, also added to the difficulties and to the cost. Upon the whole, the aggregate amount of extra work upon the line, including the Yadkin survey, and other charges, added to the original estimate, will cause the sum to be expended, to amount to \$300,000. (See appendix B)

The amount expended upon the work up to this date, (September 30, 1852,) arranged under appropriate heads in the Treasurer's Report, will be found to be \$232,960 64; which includes the construction account, timber, lumber, and also interest, and several other items extraneous of construction, amounting to \$13,863 61; which leaves the sum paid out on account of construction proper, \$219,096 43.

I was called upon in January last, by the Board, to state what would be the *probable* amount required to complete the work; and I stated that it would require \$93,000; and, with good management under the present organization, this sum is believed to be ample.

In order that the above expenditures may be appreciated and understood, and to give a clear idea of the present condition of the works, I will describe each one separately, beginning at the lowest point, which, together with the note (B.) in the Appendix, will furnish all necessary information.

CROSS CREEK LOCK AND DAM.

These works were not *contemplated nor estimated for* in the original Report. Anticipating an arrangement with the old Cape Fear Navigation Company, by which it was proposed to erect a dam and lock at Spring Hill, about three miles below Fayetteville, which would have flowed the water back to the Jones Falls lock, and thereby rendered unnecessary the works at Cross Creek, as well as the the wing dams originally contemplated, the Board did not direct the commencement of this work until after the failure to negotiate with the old Cape Fear Company in the summer of 1851. Arrangements were then immediately made for the prosecution of the work, and such progress would have been made in the work as to have rendered its completion certain in the fall of 1852. But, upon the positive assurances of a gentleman, (a director at that time,) that, when a boat could get up to Fayetteville, it could pass on to the Jones Falls lock, you sent an express directing me to suspend the work for that season. Those assurances had no foundation in fact, and only operated to delay a work absolutely essential to the navigation of the lower part of the river.

This being the lowest lock on your improvement, and there being no dam below to back the water upon the mitre sill, it was necessary, in fixing upon its location, not only to obtain a rock foundation, but to select a point where the natural depth of the water was sufficient to enable us to establish the foundation, and consequently the mitre sill, sufficiently low to insure a depth of water at all seasons, of three feet upon it, in order that boats and flats, of all kinds,

might float over it in going into and out of the lock. Accordingly, a point was selected one third of a mile above Cross Creek, uniting these conditions.

From this lock down to the mouth of the creek, which is the lower limit of the franchise of the company, the water varies in depth from two to three feet in low summer water. To make it certain, however, that all boats coming to Fayetteville can get up this lock, flood gates will be provided in the dam, as well as the erection of three short wing dams, to confine the water to low water channel. (See Appendix, Note N.)

The coffer dam has been built for this lock: the excavation for the foundation is about half done, and the foundation timber of the lock laid and floored over above the lower mitre sill. The mitre sills are framed, and nearly the whole of the timber and lumber has been provided for this work, and a considerable portion paid for. One of the shanties has been so constructed as to answer for the lock keeper's dwelling.

This lock is 24 feet wide in the chamber. It is proposed to build the lock and dam of the height and character of construction adapted to the lower Cape Fear. The dam will have a considerable down stream slope, and will be raised to such a height as to allow all boats and flats, in winter and spring water, to pass over it. The lock, therefore, would only be used when the water became so low as not to allow of the passage over the dam.

JONES' FALLS LOCK AND DAM.

This lock was so far finished last fall as to allow of its being used. The dam, however, was not raised to its full height, and consequently did not back the water upon the mitre sill of the Silver Run lock. This operated materially against the lumber and timber makers, and gave them grounds of complaint. There was no remedy for it, however, and when the facts were laid before them, at a meeting called

to consider their grievances, with a magnanimity worthy of all praise, they waived the subject, and submitted to the inconvenience in their desire to promote the interest of the whole Cape Fear.

The dam was raised to its full height, but not sheeted over nor fully packed, on the 7th of July past.—When the hands quit work on the evening of that day, all was safe; and the sheeting of the dam would have been commenced on the next day, which would have made the work secure. There was no indication of a rise in the river, as there had been no rain there. On the morning of the 8th, when the hands went to work, they found that the river had risen considerably, and was still rising rapidly. The long period of dry weather previously had so thoroughly dried and lightened the logs, trees and trash, which would not otherwise have floated to the extent they did, that the amount of drift was unusually great. The purloins are those timbers running longitudinally with the dam on its upper slope, and to which the planking of the dam is spiked. The packing was not up to these timbers by about three feet, except for a short distance on the abutment side. The logs and trees, in floating down, would be arrested by these timbers, and sink under them, while their upper ends would float on the surface of the water above, and catch all the drift and trash floating down. In this way a raft accumulated across the river from the lock to the opposite abutment about six feet high, in which were several large trees with their limbs and roots attached. This raft backed the water entirely over the pair head cribs, although the lock gates had been fastened open for some days previous, in order to draw off the water of the pond.

The pressure finally augmented to such an extent, which was still further increased by the leverage of the drift, that the five top courses finally gave way, and floated off with the drift upon it, in one solid mass. The lower portion of the dam, averaging about eight feet in height, was not injured by the severe strain upon it, nor the apron, excepting

some of the sheeting, which was raised up at its lower end. I beg leave to refer to Mr. J. Newton Clegg's letter to me, of July 17, which is confirmatory of my own statement.— (See Appendix C.)

Although this accident, in a pecuniary point of view, is not a serious affair, as the loss, all told, will not exceed \$800, yet at this time it is a very great misfortune; for, had it not have occurred, the dam would have been finished in two weeks time, which would have insured the passage of Steamboats to the head of Smiley's Falls, and infused more vigor into the operations of the Company.

The sole cause of the disaster was the unfinished condition of the dam. No work of this character can be considered safe until it is finished, as the history of any other similar work in this country sufficiently shows; and from which it will be farther seen that this work has been remarkably exempt from serious casualties. In December, 1850, the Judith dam, on the James River, in Virginia, built of solid stone masonry, when nearly at its full height, and the coping partly on, was caught by a sudden rise, and breached to such an extent that it took some \$30,000 to rebuild it. That accident was alone ascribed to the unfinished state of the dam; and I might cite other instances upon similar works where accidents have taken place from the same cause.

Upon the Cape Fear, we have no immunity from similar casualties; we must take our chances with other works, and, by using all the means and force at the command of the Company, guard against them as far as possible. Three weeks previous to this accident, the force employed upon the dam was 35 hands; it fell off directly after to 17 hands. Could the original force have been retained, the work would have been finished in ten days before the rise. The efforts of Mr. Newton Clegg, 12 days previous, could not increase the force a single man. I must again repeat that, without a sufficient force, no work of this character can be carried on *securely*. Unfortunately, the many reports industriously

circulated by the agents of the late contractors, of the insolvency of the Company, has operated to prevent hands from coming on the work; and the necessary postponement for a few days of the regular pay day, in consequence of the arbitration, has had a tendency to impair confidence.

In this connection I must here remark, that without a sufficient force, the engineer is powerless to carry on the work securely and rapidly, and what makes it more onerous upon him is, that very few make any allowance for this, and attribute to him the delay of the work, when the true cause is the want of the requisite force. Unless this is obtained for the whole time, the true policy is to concentrate the present force below, and finish up the several works regularly; this would bring into use a considerable portion of the river, necessarily place the company upon high ground, and enable them to push on with vigor, the balance of the work. (See Appendix note D.) The foreman at Buckhorn, Mr Badders, has been directed to take the greater part of his force to Jones' Falls, with the exception of a quarry gang, to finish up that work as speedily as possible. He will have altogether a force of 50 hands, and, weather permitting, ought to finish the work in two weeks.

The lock walls at this point are 24 feet above the foundation plank. The dam is 15 feet high, and provided with an apron to receive the water flowing over it. In consequence of the defective manner in which a portion of the lock foundation was put in, I have been compelled to erect a buttress along the outer wall, and three straining beams, with thin corresponding upright timbers clamping the lock at the lower recess, which insures the safety of the work. A well built lock house has been erected upon land purchased for that purpose.

SILVER RUN LOCK AND DAM.

This work was finished last fall. The dam is 11 1-2 feet high, and the lock walls 19 feet 7 1-2 inches above the foun-

dation plank. Precautionary structures became necessary here, similar to those at Jones' Falls, and for the same reason. Both this work and the Jones' Falls lock and dam are massive and imposing structures, calculated to resist any flood, when entirely finished. A well built lock house is also provided at this point.

RED ROCK LOCK AND DAM.

This work was so far completed last fall, that the lock could be used. The dam was not sheeted over nor sheet-piled, nor was the packing fully up or the gravelling finished. The dam is 11 1-4 feet high, and the lock walls 19 feet 7 1-2 inches. This work is now in course of completion, with a force of 10 hands. The lock house is in part finished at this point.

HAW RIDGE LOCK AND DAM.

This dam is 11 1-4 feet high, and the lock walls 19 feet 7 1 2 inches, all finished.

GREEN ROCK LOCK AND DAM.

This dam is 9 feet high, and the lock walls 19 feet, all finished.

BIG ISLAND LOCK AND DAM.

In the location of this dam, the natural ledge of rock making across the river was taken advantage of. A portion of the dam is convex to the stream, and presents the appearance of great strength—the entire work here in connection with the rugged scenery presents an imposing appearance. The dam varies from 4 to 11 feet in height, depending upon the height of the ledge upon which it rests. The lock walls 17 1-2 feet high. The dam was not quite finished last fall. It is now in course of completion.

SHARPFIELD LOCK AND DAM.

The lock is nearly finished. It yet requires some sheeting, and about 4 feet of packing in one wall. The gates are framed, and the hollow quoins and pintals set. The dam is 4 ranges high, and the abutment 8 ranges. The packing is not entirely up with the framing. I directed the framing to be suspended until the work was fully packed.

McALLISTER LOCK AND DAM.

The lock walls are eighteen feet high, and nearly finished. The gates are framed, and the hollow quoins and pintals set. The pier head cribs are nearly finished. The dam is 5 ranges high, and the abutment nearly to its full height, and all fully packed.

FOX'S ISLAND LOCK AND DAM.

The lock walls have been raised 6 feet high ; the second flooring is down, and the side sheeting of the chamber 4 ft. high. The gates are framed, and a large amount of material prepared. There has nothing been done to the dam but the excavation for the abutment.

NORRINGTON'S LOCK AND DAM.

The lock is nearly finished ; it yet requires a small amount of sheeting. The gates are framed, and the dam is raised up 8 1-2 feet and packed.

BATTLE'S FALLS LOCK AND DAM.

The lock walls are raised up 6 feet and packed. The abutment of the dam is nearly to its full height, sheeted and packed. The foundation of the dam is laid for nearly the whole distance, and a part of it raised three courses.

BUCKHORN WORK

Consists of 1 guard lock and 2 left locks, a canal half a mile long, 4 sloo dams, connecting together a chain of islands, forming an inner navigation, including the canal of

about 1 1-2 miles, and a dam over the main river at the head of the Falls. The canal is finished with the exception of dressing up. The guard lock and one of the left locks are nearly finished. The foundation for the outlet left lock is nearly all excavated, and the copper dam at the lower end raised. The sloop dams are nearly all finished, and the embankments upon the islands, with their puddle ditches, are under considerable progress. The lock gates are formed for the three locks, and nearly all of the material is prepared and in course of delivery. This work is in a forward state, and is so arranged that all of the natural features of the locality are taken advantage of, to reduce the cost; when completed, this work will flow the water past Haywood, up to Pullens' Falls.

PULLEN'S FALLS WORK

Consists of two lift locks, from the river into the canal; a canal about half a mile long; one guard lock, where the canal leaves the river; a dam across the river at that point; two other dams across the river above, with a lift lock in each. The outlet lock-pit has been excavated; a considerable portion of this is in solid rock; but as the packing would have to be hauled a considerable distance, it will not add materially to the cost. The frame work upon the lock walls is about half done and packed. A portion of the Basin has been excavated. The Lock next above the outlet Lock is raised up to the full height and packed. The gates are framed for these two Locks. The Canal is in part excavated. The material is nearly all prepared for the Grand Lock, and the Dam. The gates are framed. The next Lock and Dam above are finished, with the execution of the Hollow Quoins and Pintals, and the gates are framed. The next Lock and Dam still above were begun last Fall. The Dam is 2 courses high and the abutment nearly to its full height and packed. The Copper Dam was put in for the Lock. The scenery through

the rugged gorge of Pullen's Falls is of a varied and picturesque character, and when the Steamers are floating upon its still pools, the views can scarcely be surpassed, if equaled.

THE WORKS AT N. CLEGG'S MILL

Consist of one Guard Lock and one Lift Lock, also, a Dam over the main River, and a small amount of embankment upon the Island. The Guard Lock is nearly completed, as well as the Dam over the River. The Lift Lock is considerably advanced towards completion, and the Puddle Ditch for the embankment cut.

FARISH'S FISH TRAP LOCK AND DAM.

This Lock is raised to its full height and nearly finished; considerable progress has been made with the Dam; it has yet to be raised from 2 to 3 courses.

LOCK AND DAM AT THE GULF.

The Lock is raised to the full height and nearly finished; considerable progress has been made with the Dam.

LOCK AND DAM AT P. G. EVANS' MILL.

The Lock is raised to its full height and packed; it is nearly finished. The present Dam being generally in good condition, it will be raised upon until 2 feet additional height is obtained, which will flow the water back to Hancock's Mill, about 11 miles.

With this statement of the condition of the several works, it will not be difficult to form a tolerably correct opinion of the progress that has been made. The Map prepared under my direction shows the locality of the several works in *red ink*—and can be seen at the office.

You were informed in the last annual report, that it would require 150 hands to finish the work from Jones Falls to Big Island, *both inclusive*, in the Fall of 1851—as

this force was not obtained, the works were not finished and another season of low water had to be waited for.

When called upon by the Board at their meeting about the 1st of June 1852, to state what force would be required to finish the work by the first of January 1853, I stated that for the first three months it would be necessary to push the work, and that 500 hands would be required for that period to take advantage of low water, but that for the remaining portion of the time 300 hands would be sufficient; since that period, we have at no time had upon the work exceeding 286 hands; we have now but 234.

It will be seen therefore, that it will be absolutely necessary—if it is expected to finish the work by the first of January 1853, to increase the force materially, and I would respectfully call the attention of the Board to this important fact. It is one of the deepest interest to the Stockholders—to the Board, and I may add to the Engineer, who, independent of his interest as a Stockholder, has his professional reputation concerned in the speedy completion of the work. For there are those who visit upon him all the causes of delay, and although he has frequently stated that a sufficient force is absolutely necessary to take advantage of seasons of low water, yet this is never considered by those who complain.

Your honorable body, in your desire to facilitate the works upon the lower part of the River, so soon as you ascertained, that those subscribers upon Deep River had approximated in the quantity of their work, to the amount of their subscriptions, very properly suspended the work at every point, as soon as it could be done, without certain loss to the Company, in order that all the means at your command might be devoted to the carrying forward of the lower part of the work.

The work, so far as completed, fulfils entirely all the conditions claimed for it. The dams flow the water back into the chambers of the locks next above them, in all cases, creating lengthy and spacious pools of slack water for boats

and floats of all kinds. Indeed, I assert it, without the fear of contradiction, that upon no river in this country, nor, so far as I am informed, in any other, is there an artificial navigation that will compete with this, when finished; and I can safely assert further, that there are several other works in this country, the aggregate cost of which has exceeded the cost of this several hundred per cent., which will not compare with it in point of efficiency and economy of transportation.

Of its ability to transport, at a very low charge of *toll* and *freight*, there can be no question. Those charges are always regulated by the capital expended in the execution of the work; by the tonnage of the boats navigating it; by the motive power used in propelling them; and the amount of trade offering. Your improvement combines, in a remarkable degree, all of these essential elements.

The capital which will have been expended to complete the 100 miles, say \$300,000, at the average cost per mile of the principal canals in the United States, (\$23,207) would only have built from 12 to 13 miles of them. The tonnage of your boats will be 130 tons, with the present depth upon the mitre sills, which can be increased at any future time, when the trade accumulates sufficiently to warrant it, to one foot more for 200 ton boats, at little cost, by simply bolting on to the courses of the dams a 12 inch timber. The motive power will be steam, and of the amount of trade, no one can entertain a doubt who is at all familiar with the resources of the vast region drained by the Cape Fear and its tributaries. The coal region, alone, will afford a vast trade; all of which will, by the strongest of all incentives, *cheapness of transportation*, be drawn to your improvement as an outlet to market.

That your improvement has already begun to exert a beneficial influence upon the various interests of the country, is evidenced by the fact, that, since its commencement, 11 turpentine distilleries have gone up on the Cape Fear and within reach of it, beginning 8 miles above Fayetteville, and extending to Summerville, some 40 miles above.

The turpentine trees are boxed as high up as Purifoy's Ferry, and this operation will undoubtedly be extended throughout the extent of your improvement. The amount of naval stores which will be furnished by this vast region it would be difficult to estimate; real estate has already advanced considerably on Deep River, in consequence of the immense mineral deposits, several hundred per cent.

It surely cannot be otherwise than gratifying to the friends of the work, and especially to those who have labored so arduously, and incurred such heavy responsibilities for its advancement, to know that, before a single boat has passed through the line, the intelligence and practical hard sense of the people has endorsed their scheme so emphatically as to leave no doubt as to what its effect must be upon the multiplied interests of the vast country drained by it.

It requires no prophetic vision to penetrate the vista now opening to the view of all. For the time is coming when your work will be taxed to its utmost ability to accommodate the trade which will be borne upon it. Every day it is gaining friends, and among them those who have heretofore kept aloof, not believing in its practicability, from the mere fact of their not understanding its operation.

In fact, you have had a large amount of prejudice to contend with, since the commencement of the work. But it must not be supposed that it is peculiar to your work. It has been felt to a great extent upon many others. Unfortunately, the force employed on the line has not been sufficient since the commencement. The Central Railroad and the several Plank Roads which have been in course of construction, during this period, have diverted hands enough to have insured the completion of your work before this. Yet, by unremitting efforts and unabating zeal, you have urged your work so far forward that you are on the eve of the consummation of all your toils.

From what has already been said, in this Report, of the condition of your work, the conviction must force itself upon all, that, in the course of a few months, with favora-

ble weather, and the necessary material aid, your improvement could be opened for use throughout its length, affording, during the lowest summer water, a reliable navigation for boats of 130 tons. That this fact may be brought quickly to the minds of all, it is only necessary for me to state, that, during the lowest water of this summer, which is believed to have been as low as has ever been known—when Mr. Lutterloh's steamboat, drawing only 13 1-2 inches water, could not move from the Fayetteville wharfs, the water was flowing, with a full sheet from one end to the other, over all your dams above Fayetteville *which had been finished*: affording no less than 3 feet water upon the mitre sills of the locks, and in the ponds, of course, a much greater depth: proving, clearly and satisfactorily, that, *at all seasons*, the boating water upon the upper Cape Fear will be ample for the accommodation of a vast trade.

Upon the completion of the Jones' Falls dam, you will be authorised, under the 26th section of your charter, to collect tolls upon that portion of your work which may be in readiness, which will embrace that portion of the river extending to the head of Smiley's Falls, and shortly after other portions will be added to this. Upon that portion of the river below Jones' Falls, over which your franchise extends, it is presumed no tolls will be charged until the completion of the cross creek lock and dam. It becomes necessary then that a toll sheet should be fixed upon.

At a former meeting of the board, a committee was appointed, consisting of Thos. Hill, P. G. Evans, J. Clegg and W. B. Thompson, to take into consideration and report upon the subject of *Tolls*; and as it is one of the most important and difficult subjects connected with the management of all improvements, and deeply interesting to all concerned in this, it is thought appropriate to introduce the conclusions to which the committee have arrived, in this report. After examining the rate charged upon the various improvements in the country, of a similar character, your committee have concluded to recommend the rate of toll

upon all articles (for the present) as marked upon the *toll sheet*, to be found in the appendix marked F; and they also recommend the adoption of the by-laws, rules and regulations, to be found there also.

This system of by-laws and regulations, they found necessary to adopt, in order to secure upon the line of your work, order and regularity, not only on the part of the officers of the Company, but on the part of those engaged in navigating the river. This section is substantially the same as that in use on the Chesapeake and Ohio canal of Maryland, and has been perfected by years of experience on that canal, and each section added as experience dictated the necessity for it.

In conclusion, I desire to express my unaltered convictions, sustained by the facts which have been gradually developing since the commencement of your work, that it will prove to be eminently successful, and that the tolls will yield a fair interest upon the capital invested.

The importance of its speedy completion must be so apparent to all, that I trust your honorable body will find ready and hearty co-operations generally among the stockholders, who will aid in placing you in condition to secure the necessary force to finish up the work in the shortest possible time.

All of which is respectfully submitted, by

Your obedient servant,

W. BEVERHOUT THOMPSON,

Chief Engineer.

APPENDIX .

NOTE (A.)

Communication to the Board, April 1st 1851.

To the President and Directors of the Cape Fear and Deep River Navigation Company.

GENTLEMEN: In view of advancing the work under McCullough & Co's. contract during the coming working season—and to ensure, if possible, its completion in the time required by their Bonds, it will be necessary for them to employ and work a force of 500 hands, with the requisite number of Boats, Tools and Wheelbarrows, requiring provision to be made for paying monthly estimates of from \$12,000 to \$15,000.

Without this force the work cannot be accomplished until the Summer or Fall of 1852. I would therefore respectfully urge, that this force be insisted upon, and that the necessary steps be taken to provide the ways and means.

Respectfully, your obt. Servt.

W. BEVERHOUT THOMPSON,

Chief Engineer.

Letter to Solomon McCullough, (Contractor.)

Pleasant Plains, April 15th, 1851.

Solomon McCullough, Esq.; Dear Sir: Some two months since you wrote me that you should leave for North Carolina on the 14th of February—the 15th of April has arrived, and I am not informed of your being any nearer this State than when you wrote. You have been absent from your contract nearly four months, when it was supposed that as many weeks would be the limit of your stay. Your Son Thomas has been absent from the work two weeks—and I am informed that McElrath leaves in a day or two, to be absent until September.

By the direction of the Board, I made a requisition upon

you one month since, for 200 hands, to be placed upon the line by this day, and requiring that two Flats should be prepared for each Dam and Lock—together with the requisite number of Wheelbarrows and Tools of all kinds. This requisition has not been complied with, as you have only 40 hands, 4 Flats and are altogether deficient in Wheelbarrows and Tools. At a meeting of the Stockholders held on the 4th of April, arrangements were made to secure 500 hands on your contract. I therefore write this to apprise you that unless, some energetic steps are taken by the meeting of the Board on the 1st Tuesday in May next, there will undoubtedly be other arrangements made for the completion of your contract in the time required in your Bond. In fact I would impress upon you the importance of appearing in person at Pittsboro' on the day of the meeting alluded to—as each Lock and Dam upon your contract must be started with a sufficient force, early in May. This will be insisted upon. There have been no Shanties prepared at any of the works above Smiley's Falls.

Your obt. Servt.

W. BEVERHOUT THOMPSON,
Chief Engineer.

To the same, May 14th, 1851.

Solomon McCullough, Esq.; Dear Sir: Your favour of the 8th post marked the 10th of May, I have this moment received, in which you say that you have been on to New York to send forward hands, but do not say whether you have succeeded in doing so.

There are but 60 hands upon your contract; the working season has arrived, and I fear will be lost, before the requisite number of hands are obtained.

The idea of finishing this contract under the present management is a *perfect farce*. There should be at this time at least 500 hands, labourers and mechanics, upon the line. McElrath has left, and you have neither managers nor foremen for the work. There are but four of the latter, such as they are, and a total deficiency of carpenters. Unless six more foremen, with the necessary carpenters and labourers are speedily obtained, I am instructed by the *arq* to take steps to procure them, and push forward the

work. I trust, that should you be detained any longer by interests irrespective of this work, that you will at least forward the foremen, labourers and tools, that the work may go on.

Your obedient servant,
W. BEVERHOUT THOMPSON,
 Chief Engineer.

NOTE B.

The original estimates as stated in the report to the commissioners was - - - \$185,000 00

This was the nett estimate for construction alone, as stated at the time. To cover officers' salaries, land damages, &c., the capital stock was made - - - 200,000 00

Work resolved upon since the commencement—

4 additional locks and dams - - - \$40,000 00

Lengthening all the locks 18 feet - - - 20,000 00

Widening the lower locks - - - 6,000 00

4 aprons to the lower dams, straining beams and buttresses, made necessary by defective work of contractors, and increased lift to river locks and dams - - - 15,000 00

Sundry expenses not in the estimate, and paid out of capital stock, viz :

Survey of Yadkin River and Railroad to connect the two rivers \$1,855 39

Salaries of officers since 1st January, 1852 - - - 3,500 00

Interest on loans already made - 2,327 00

Cost of wagons, mules, boats, tools, &c., bought from McCullough & Co., on hand - 3,000 00

Incidental expenses, lawyer fees, &c. - - - 765 58

Preliminary survey paid by subscription, and returned to subscribers out of capital stock - 815 30

Importation of hands from New York - - - - -	2,084	61	
Travelling expenses of agents - - - - -	589	24	
Cost of arbitration in part - - - - -	554	42	15,491 54
			<hr/>
			\$96,491 54
Damaged timber replaced - - - - -			2,000 00
			<hr/>
Total - - - - -			\$98,491 54

NOTE C.

Letter from Newton Clegg, Agent of the company :

JONES' FALLS, July 14th, 1852.

Col. Thompson :

Dear Sir—At your request, I will state to you, as near as I can, the condition of the work at this place, when the late rise came, which proved so disastrous to the dam.

The dam was raised to its full height ; the ties were all on. The purloins, which were only three feet apart, let into and extending across the ties and trunailed securely to them, from the lock to the abutment. The toe pieces were secured to each other, not only by trunails, but also with iron bolts, ragged at the point, forty inches long, driven through them. The timbering was all complete, and ready for the planking, but the packing was not up; it wanted some three feet on the heel of the dam, all across the river from the lock to the abutment, except a small portion on the opposite side from the lock, which was filled, in order to commence sheeting as soon as possible. The water came down very rapidly, and with it an abundance of timber, trees, logs and trash of all kinds. The ends of the logs would strike on the dam, and fall under the purloins and hang. The other ends of these would extend above the water, and catch everything that came along: in this way the raft continued to accumulate on and above the dam, until it extended from the lock entirely across the river to the abutment. Finally, five courses on the top of the dam gave way and went off in a solid body, breaking some of the large timbers short off, and tearing off the dovetails at the end of the ties.

The accumulation of this drift was no doubt the cause of the injury to the dam, which could not have happened to the extent it did, if the packing had been completed. But it is next to impossible to get hands to work at this point; they come and commence work, but quit and leave in a few days, which keeps the work back. I have done all that I could to get hands from the neighborhood, but have failed thus far.

There is a sufficient amount of timber for the immediate repair of the dam, which could be done in three weeks with a sufficient force.

Your obd't servant,

J. NEWTON CLEGG,

Agent of the Company.

NOTE N.

It is hoped and believed that the time is not remote when the old Navigation Company will put in a lock and dam at Spring Hill, which will necessarily flow the water back to the Cross Creek lock.

NOTE D.

In regard to the delay in the execution of the lower works and the causes which have operated to advance the works upon the upper part of the river beyond these:—the reasons are briefly as follows: The largest individual subscriptions to the work were made by gentlemen residing upon Deep River, who subscribed with the understanding that they were to be allowed to work out their stock. Their contracts advanced rapidly, not only because there was the ability to do so, but because it was necessary they should, in order to enable the company to draw the State subscription, which could only be had as the subscriptions were paid in by the private stockholders. Hands could not be procured to work upon the lower works, on account of its alleged unhealthiness. Laborers would come in from the upper counties, and absolutely refuse to work below Smiley's Fall, and hundreds have returned home sooner than work there, although the wages were \$1 per day, and only 80 cents upon the upper work.

REPORT OF THE TREASURER, TO SEPT. 30, 1852.

To amount paid on salaries,	\$ 20,869 80
Do Construction and for timber, &c.	710,479 00
Do do do	27,017 94
Do for boats, wagons, mules, &c.	3,000 00
Do Preliminary Survey,	815 30
Do Land damages,	1,226 47
Do Yadkin Survey,	1,855 39
Do Interest on loans,	2,327 70
Do Foreign hands,	2,084 61
Do Travelling expenses of Agents	589 24
Do Arbitration costs in part,	554 42
Do Expenses of office, &c.	765 58
Balance on hand,	8,486 65

\$240,071 47

Outstanding liabilities, \$70,000.

By amount of Capital Stock paid in by Stock- holders, and advances made by the President and Directors in their individual capacity on Stock,	\$120,000 00
Do State's subscription,	80,000 00
Do Loans from the President and Directors individually, and from other sources,	39,825 47
Loan from John H. Haughton,	246 00

\$240,071 47

By balance on hand, \$8,486 65

J. J. JACKSON, Treasurer.

[HOUSE DOCUMENT, No. 33.]

A BILL

TO INCORPORATE A BANK

IN THE TOWN OF PLYMOUTH,

TO BE CALLED

THE BANK OF ROANOKE.

—•••—

RALEIGH:

SEATON GALES, PRINTER TO THE LEGISLATURE.

1852

[Introduced by Mr. PHELPS.—Passed its first reading, and referred to the Committee on Corporations, and ordered to be printed.]

A BILL

To incorporate a Bank in the Town of Plymouth, in the County of Washington.

1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by authority of the same,* That a Bank shall be established in the Town of Plymouth, the capital stock of which shall not exceed four hundred thousand dollars, divided into shares of one hundred dollars each; and, for the purpose of receiving subscriptions for said stock, books shall be opened, on or before the 1st day of February, one thousand eight hundred and fifty three, and remain open for the space of sixty days, at Plymouth, under the superintendence of Joseph C. Norcom, Henry B. Short, Hezekiah G. Spruill, Charles Latham, Jehu Nickolls, and Thomas E. Pender, or a majority of them; and at the same time, and at such other places, and under the superintendence of such other persons, as may be designated by the commissioners appointed to receive subscriptions at Plymouth.

II. *Be it further enacted,* That one-fifth of said shares shall be paid in gold or silver, or their equivalent, to the commissioners above named, or those appointed by them, at the time of subscribing; that another fifth shall be paid within sixty days thereafter; that another fifth shall be paid within one hundred and twenty days thereafter; that another fifth shall be paid within three months after the time appointed for paying the third instalment; and the remaining fifth shall be paid within three months after the time of paying the fourth instalment; and if any subscriber shall fail to pay any instal-

12 ment, at the time stipulated, he shall pay interest there-
 13 on at the rate of six per cent. per annum, and his stock
 14 shall be forfeited, and may be sold by the Bank, and the
 15 proceeds applied to the payment of the aforesaid defi-
 16 cient instalment, and he shall be held responsible for the
 17 same at the option of the Bank ; and the remainder, if
 18 any, of such sale, to be paid over to the subscriber : *Pro-*
 19 *vided*, That, after the Bank shall have been organized,
 20 as hereinafter provided, the remaining unpaid instal-
 21 ments shall be paid to the directors or their agents ; and
 22 it shall be lawful for any subscriber to pay the whole
 23 of his subscription, or any greater part than is hereby
 24 required, before the time limited for the same ; and every
 26 subscriber so paying in advance shall have a discount,
 27 at the rate of six per cent. per annum on such advance,
 28 computing the same from the time when payment is
 29 made, to the time when payment is required to be made.

III. *Be it further enacted*, That when five hundred shares
 2 are subscribed, and the sum of twenty five thousand
 3 dollars is actually paid to the commissioners afore-
 4 said, the subscribers to the said Bank, their suc-
 5 cessors and assignees, shall be and they are hereby
 6 created a body politic, in law and in fact, by the name
 7 and style of the Bank of Roanoke, and shall so continue
 8 until the first day of January, one thousand eight hun-
 9 dred and seventy-nine ; and by the name and style
 10 aforesaid they shall be, and they are hereby, made able
 11 and capable in law to have, purchase, receive, possess,
 12 enjoy and retain, to themselves and successors, lands
 13 tenements, rents, hereditaments, goods, chattels, and
 14 effects, and the same to grant, demise, alien and dispose
 15 of ; to sue and be sued, implead and be impleaded, an-
 16 swer and be answered, defend and be defended, in courts
 17 of record, or in any place whatsoever : and also to make,
 18 have and use a common seal, and the same to break,
 19 alter or renew at their pleasure ; and also to ordain, es-

20 tablish, and put into execution, such by-laws, ordinan-
 21 ces, and regulations as shall seem necessary and con-
 22 venient for government of said corporation ; and for the
 23 making whereof general meetings of the stockholders
 24 may be called, in manner hereinafter specified ; and gen-
 25 erally to do and execute all acts, matters and things
 26 which a corporation and body politic in law may or can,
 27 lawfully execute, and be subject to the rules, regulations
 28 restrictions, and provisions hereinafter prescribed and
 29 declared.

IV. *And be it further enacted*, That, if it shall happen,
 2 when the books shall be opened as aforesaid, that a
 3 greater sum than four hundred thousand dollars shall
 4 be subscribed by individuals, or by bodies corporate, it
 5 shall be lawful for the commissionens to reduce such sub-
 6 scriptions according to a scale to be by them established
 7 for that purpose, to the aforesaid amount of four hun-
 8 dred thousand dollars : *Provided*, That no subscription
 9 of two shares or under shall be scaled, until all larger
 10 subscriptions shall be first reduced to an equality with
 11 them ; and, if five hundred shares shall not be subscrib-
 12 ed within the sixty days aforesaid, the commissioners
 13 may keep the books of subscription open twelve months
 14 longer, unless the same be sooner subscribed ; and the
 15 directors, elected as hereinafter prescribed, shall be al-
 16 lowed to keep open the subscription books until the
 17 whole of the stock shall be taken, and open and close
 18 the same previous thereto, at their discretion. The com-
 19 missioners appointed at other places shall pay over to
 20 the commissioners appointed herein to receive subscrip-
 21 tions at Plymouth, all monies paid to them on stock sub-
 22 scriptions, immediately after receiving the same : *Pro-*
 23 *vided*, That the commissioners herein appointed shall
 24 have power, if they deem it proper, not to demand any
 25 portion of the stock subscriptions till the said sum of fifty
 26 thousand dollars be subscribed, and that they may then

27 require the payment for the stock to be made, in the
 28 proportions as herein provided, or in such proportions
 29 as they may deem advisable.

V. *Be it further enacted*, That as soon as five hundred
 2 shares shall be taken in the stock of said Bank and
 3 twenty-five thousand dollars paid to the commissioners,
 4 who keep the books, notice shall be given in the Gazette
 5 published in Plymouth, (or in some other public manner,)
 6 and a meeting of the subscribers, to be held twenty
 7 days at least after the date of the notice, shall be called.
 8 If, at this meeting, those or their agents who have a
 9 majority of votes, according to the rates hereinafter des-
 10 cribed, be present, (if not, another meeting shall be cal-
 11 led,) they shall proceed to the election of seven direc-
 12 tors. who shall take charge of the money and books, in
 13 the hands of the commissioners, and immediately pur-
 14 sue the usual means, to put the bank in operation. The
 15 said directors shall remain in office, until the time which
 16 shall be prescribed in the by-laws, of the said corpora-
 17 tion, for the annual meeting of the stockholders, or un-
 18 til their successors shall be appointed; and at the time
 19 which shall be prescribed, as aforesaid in each year, or
 20 at any time thereafter, meetings of the stockholders
 21 shall be held in the Town of Plymouth, for the purpose
 22 of electing directors, inquiring into the affairs of the in-
 23 stitution, and making such regulations, as may be deem-
 24 ed fit and necessary.

VI. *Be it further enacted*, That the following rules, re-
 2 gulations and provisions, shall form and be the funda-
 3 mental articles of the constitution of the corporation.
 4 A meeting of the stockholders cannot be held unless
 5 those who have a majority of the whole number of votes
 6 be present; and every act shall require the sanction of
 7 a majority of the votes which may be present; every
 8 stockholder holding one share and not more than two,

9 shall be entitled, to one vote ; for every two shares, above
 10 two, and not exceeding ten, one vote ; for every three
 11 shares above ten, and not exceeding forty, one vote ; for
 12 every six shares above forty and not exceeding one hun-
 13 dred, one vote ; and for every ten shares, above one
 14 hundred and not exceeding two hundred, one vote ; for
 15 every twenty shares above two hundred, one vote. Af-
 16 ter the first meeting, no share or shares shall confer a
 17 right of voting, which shall not have been holden three
 18 calendar months, before the day of voting. Stockhol-
 19 ders may vote at general meetings and elections, by
 20 proxy, the proxy himself being a stockholder. None
 21 but a stockholder who is a citizen of the State, shall be
 22 eligible as a director ; and the stockholders shall ap-
 23 point, annually, seven directors to manage the Bank,
 24 and when appointed, they shall choose one of their
 25 number, President of the Bank ; and shall manage the
 26 institution, as shall seem best, unless otherwise direc-
 27 ted by the stockholders. Not less than three directors,
 28 of whom the President shall always be one, shall consti-
 29 tute a Board for the transaction of business, except in
 30 case of the absence or sickness of the President, when
 31 he may, by writing, nominate any other director to sup-
 32 ply in place. If a vacancy in the directory shall occur,
 33 by death, resignation or otherwise, the remaining direc-
 34 tors shall fill such vacancy until the succeeding annual
 35 meeting of the stockholders. A number of stockholders,
 36 not less than ten, who together shall be owners of three
 37 hundred shares or upwards, shall have power at any
 38 time to call a general meeting of the stockholders, for
 39 purposes relative to the institution, giving at least twenty
 40 days notice in a public gazette, and specifying the ob-
 41 ject or objects of such meeting. The directors shall
 42 annually elect such officers, as may be deemed neces-
 43 sary to perform the business of the Bank, and may
 44 remove them or either of them at pleasure. These offi-
 45 cers shall be required to give Bonds, with two or more

46 securities, in sums of not less than ten thousand dollars,
 47 with a condition for good behaviour and faithful perfor-
 48 mance of duty; they shall be allowed by the directors,
 49 such compensation for their services, as shall be reason-
 50 able; but compensation to the President and Directors
 51 shall be granted at the pleasure of the stockholders. The
 52 stock of said corporation shall be assignable and trans-
 53 ferable, according to the rules, which shall be instituted
 54 in that behalf by the laws and ordinances of the same.

VII. *Be it further enacted*, That the said corporation
 2 shall neither directly or indirectly, trade in any thing
 3 except bills of exchange; promissory notes and bonds
 4 expressing on the face of them, to be negotiable and
 5 payable at said bank; gold or silver bullion, or in the
 6 sale of goods really and truly pledged for money lent,
 7 and not redeemed in due time, or in goods which shall
 8 be the produce of its lands, or in mint certificates, or in
 9 the public debt of the United States or of this State;
 10 *Provided*, The investment in such stock shall not ex-
 11 ceed one-half of the capital stock of the bank. The
 12 said corporation shall purchase and hold, only such
 13 lands, tenements, rents and hereditaments, as shall be
 14 required for the convenient transaction of its business,
 15 or shall have been *bona fide* mortgaged to it by way of
 16 security, or conveyed to it in satisfaction of debts pre-
 17 viously contracted, in the course of its dealings, or pur-
 18 chased at sale upon judgments, which shall have been
 19 obtained for such debts.

VIII. *Be it further enacted*, That the said corporation
 2 shall not take more than six per cent. per annum, for
 3 or upon its loans and discounts, which interest may be
 4 received in advance, at the time of discount, and the
 5 said Bank shall, at no time, have in circulation more
 6 than twice the amount of its capital actually paid in.

IX. *Be it further enacted*, That the bills obligatory and
 2 of credit, under the seal of the said corporation, which

3 shall be made to any person or persons, shall be assigna-
 4 ble by endorsement thereon, under the hand or hands of
 5 such person or persons, and of his, her or their assignee
 6 or assignees, and so as absolutely to transfer and vest
 7 the property therein, in each and every assignee or as-
 8 signees respectively ; and to enable such assignee or
 9 assignees to bring and maintain an action thereupon, in
 10 his, her or their name or names. And bills or notes
 11 which may be issued by order of said corporation, sign-
 12 ed by the president and countersigned by the cashier,
 13 promising the payment of money to any person or per-
 14 sons, his, her or their order, or to bearer, though not
 15 under the seal of said corporation, shall be binding and
 16 obligatory on the same, in the like manner, and with
 17 the like force and effect as upon any private person or
 18 persons : that is to say, those which shall be payable
 19 to any person or persons, his, her or their order, shall
 20 be assignable by endorsement, in like manner, and with
 21 like effect, as foreign bills of exchange now are, and
 22 those which are payable to bearer, shall be negotiable
 23 and assignable, by delivery only.

X. *Be it further enacted*, That, if any person or persons,
 2 holding any note or notes of said bank, shall present
 3 the same for payment, and payment shall be refused,
 4 the said note or notes shall draw interest at the rate of
 5 twelve per cent per annum, from the time of said de-
 6 mand, and the said bank shall pay the same, any law
 7 to the contrary notwithstanding ; and the holder of said
 8 note or notes of said bank, not paid on demand, may
 9 bring an action of assumpsit against one or all of the
 10 directors, who may have consented to issue more than
 11 twice the capital stock paid in, in case the bank be un-
 12 able to pay the amount.

XI. *Be it further enacted*, That the directors of the said
 2 bank may declare, semi-annually, dividends of the

3 profits thereof: *Provided*, That no dividend shall be
 4 declared until the whole amount of stock subscribed
 5 shall be paid, in gold or silver or their equivalent; and,
 6 if at any time, more than the real profits are divided,
 7 the directors assenting thereto shall be responsible, in
 8 their private capacities, to creditors, who have claims
 9 against said institution.

XII *Be it further enacted*, That, in case of any insol-
 2 vency of the Bank hereby created, or ultimate inability
 3 on the part of this corporation to pay, the individual
 4 stockholders shall be liable to the creditors in sums
 5 equal to the amount of stock by them respectively held
 6 in said corporation.

XIII. *Be it further enacted*, That the officer at the head
 2 of the Treasury Department of this State shall be fur-
 3 nished, once in six months, with a statement of the
 4 capital stock of said corporation, and the debts due the
 5 same; of the monies deposited therein; of the notes in
 6 circulation; and of the cash on hand; and shall have
 7 a right to inspect such general accounts in the books of
 8 the Bank as shall relate to such statement: *Provided*,
 8 That this shall not be construed to a right of inspecting
 9 the accounts of any private individual with the Bank,
 10 except the Directors; and shall also be furnished, once
 11 in twelve months, with the names of the stockholders.
 12 And it shall be the duty of the president of the Bank,
 13 in the first week in December, in each and every year,
 14 to transmit to the General Assembly a full statement of
 15 the condition of the Bank, exhibiting the amount of
 16 capital; notes in circulation; debts due to other banks,
 17 and to what banks; deposits; and all other particulars
 18 necessary to explain the debit side of the account; also
 19 the specie on hand; notes of other banks, and what
 20 banks; bills of exchange; debts, or bonds and notes
 21 discounted; specifying, in one item, the amount due

22 from stockholders, and in another the amount due by
 23 directors, not, however, using any persons' names ; and
 24 the real estate.

XIV. *Be it further enacted*, That if any person shall
 2 falsely make, forge or counterfeit, or cause or procure
 3 to be falsely made, forged or counterfeited, or willingly
 4 aid or assist, in falsely making, forging, or counterfeit-
 5 ing any bill or note, in imitation of, or purporting to be
 6 a bill or note, issued by order of the President and di-
 7 rectors of the Bank of Roanoke, or any order or check,
 8 on said Bank or corporation, or any cashier thereof, or
 9 shall pass, or receive with intent to pass, utter, or pub-
 10 lish as true any false, forged or counterfeit bill or note,
 11 purporting to be a bill or note issued by order of said
 12 corporation ; or any false or forged or counterfeited
 13 check or order upon the said Bank, or any cashier
 14 thereof, knowing the same to be falsely forged or coun-
 15 terfeited ; or shall pass, or receive with intent to pass,
 16 any falsely altered check, bill or note, issued by order
 17 of said Bank, knowing the same to be falsely altered,
 18 with intent to defraud said corporation, or any other
 19 body politic, or person or persons, every such person
 20 shall be deemed guilty of felony, and being thereof con-
 21 victed by due course of law, shall be imprisoned not ex-
 22 ceeding ten years, and fined not exceeding five thou-
 23 sand dollars.

XV. *Be it further enacted*, That the president or cashier
 2 of said Bank shall annually pay into the 'Treasury of
 3 the State twenty-five cents on each share of said
 4 capital stock which may have been subscribed for and
 5 paid in ; and the first payment of said tax shall be made
 6 twelve months after the said Bank shall have commen-
 7 ced operations.

XVI. *Be it further enacted*, That if any President,
 2 Cashier, Clerk, or other officer of the aforesaid Bank,

MEMORIALS.

To the Honorable the Members of the Senate and House of Commons of the State of North Carolina, now in session assembled ;—

The undersigned Petitioners, citizens of Washington County, respectfully show, that the increasing commercial business of the Roanoke and Albemarle country urgently requires increased Banking facilities. They believe that the wants of the people of this section of the State will be satisfied by the establishment of a Bank in the Town of Plymouth, with a capital of Four Hundred Thousand Dollars ; and they respectfully ask your Honorable Bodies, at your present session, to charter such an institution, with such restrictions as your Honorable Bodies shall deem proper, to be located at Plymouth, and to be called the Bank of Roanoke.

W A Hardison
B & S Weisel
J H Willis
A Garibold & Co
Jesse Herrington
Samuel Kissam
T E Pender
N S Fulford & Bro
Thos Long
Jas M White
Saml J Stockton
N D Norman
T J Capehart
J C Norcom
H B Short
T W Holiday
H G Spruill
Willie Whitaker

Lockhart Williams
A E Badger
Jos H Moore
H H Bowen
S C Washington
Stewart Ward
M Bowen
E W Air
W R Lewis
J H Hampton
A O Gaylord
James H Smith
A Winshell
James S Jackson
J B Beasley
Richard Wood
J F Haughton
James O Baxter

T. Beckwith	Asa Harrison
S H McRae	Harrison H Spruill
H A Gilliam	Kelly & Spruill
Alfred F Garrett	James R Lillin
Thos B Nicholls	W F Sanderson
J G Holliday	Rogers Kirk
Charles Latham	M S Fulford
Goodman Durden	W R Wool
R C Baker	Wm Berry
Geo W Pierce	T Thompson
J B Keith	Louis Picot
Wm Bagley	Edw'd A Smal
J Ramsay	Enoch Jones
Ramsey, Fagan & Co.	J T Gaylord
F F Fagan	Daniel Whitehurst
Jehu Nicholls	H E Wolfe
J Nicholls & Co.	John Green
E J Johnson	Dillon & Norman
F E Alfred	G W White
David A Kearny	Benj F Fessenden
Isaac Kelly	George T Moore
Wm Eborn	Saml Davenport
A G Gaylord	Joseph Allen
Wm H Bateman	James Magee
Bateman & Gaylord	Danel Buckley
Nathan Thompson	Warren W Ward
W H Bateman	Nelson L Nixon

To the Honorable the Members of the Senate and House of Commons of the State of North Carolina, now in Session assembled :—

The undersigned Petitioners, citizens of Hertford Connty, respectfully show, that the increasing Commercial business of the Roanoke and Albemarle County, urgently requires increased Banking facilities. They believe that the wants of the people of this section of the State will be satisfied by

the establishment of a Bank in the Town of Plymouth, with a Capital of Four Hundred Thousand Dollars; and they respectfully ask your Honorable Bodies at your present Session, to charter such an institution, with such restrictions, as your Honorable Bodies shall deem proper; to be located at Plymouth, and to be called the Bank of Roanoke.

A G Britt
 Benj J Wynn
 John O Hoggard
 Jas E Dukes
 Jno P Bridgel
 Thos Mathews
 J A Anderson
 R H Shield
 John L Jenkins
 W D Holloman
 Jos H Evans
 Abner Harrell
 Edm'd F Dunston
 J J Scull
 Starkey Sharp

Wm J Harrell
 Wm D Valentine
 Wm M Montgomery
 James Northcott
 W S Griffith
 Wm Jones
 Benj Bryant
 Geo W Wynne
 J J Larding
 Samuel Overton
 John B Taylor
 James Pilant
 Thos P Little
 J Waddill

[Introduced by Mr. DANIEL. Read first time and passed, referred to the Committee on Judiciary, and ordered to be printed.]

A BILL

To prevent the Fraudulent Conveyance of Property, and for other purposes.

1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That, hereafter, when any debtor is arrested under a *ca sa.*, and shall enter into bond for his appearance at the succeeding court, as now provided by law, and shall make his appearance in open court for the purpose of taking the oath for the benefit of insolvent debtors, such oath and schedule of property, to be rendered as now provided by law, shall have reference to the time of the service of such *ca sa.*, and not to the time of taking the oath, and the oath to be taken shall be so administered by the clerk.

II. *Be it further enacted,* That all property or effects, which any person arrested under a *ca sa.* may own at the time of the service of said writ, (except that which is now exempted by law from execution,) shall be held and deemed as bound under the same, for the benefit of the creditors, at whose instance the *ca sa.* may be sued out, and any property transferred or money paid out in discharge of any debt contracted before the service on said *ca sa.*, to a third person, between the time of the

10 services of such writ, and the time of appearing in court
 11 to take the oath as aforesaid, shall be held and deemed
 12 as fraudulent, and may be given in evidence in trying
 13 any issue of fraud, to be submitted to the jury ; and on
 14 such property, money or effects, being returned by the
 15 defendant in his schedule, and assigned for the benefit
 16 of creditors, in pursuance of the existing statutes in such
 17 cases made and provided, the same shall vest in the
 18 sheriff of the county, who shall have the same power
 19 and authority to seize, sue for, recover and dispose of,
 20 the same, as is conferred in like cases by the fourteenth
 21 section of the fifty-eighth chapter of the revised statutes ;
 22 and the money realized therefrom, after satisfying the
 23 cost, shall be applied first to the satisfaction of the judg-
 24 ment or judgments on which the *ca sa.* or *ca sas.*
 25 issued in the order, in which such *ca sas.* are served,
 26 and the balance, if any, to the other creditors, *pro rata*,
 27 as now required by law: *Provided*, That nothing in
 28 this act shall interfere with the lien of any *fieri facias*,
 29 to which the property of such debtor may be subject at
 30 the time of the service of the *ca sa.*

III. *Be it further enacted*, That the finding of the jury
 2 that said debtor has paid out to a third person, any
 3 money, between the service of the *ca sa.* and the time
 4 of appearing to take the oath in discharge of any debt
 5 contracted before the service of said writ, shall be held
 6 and deemed by the court sufficient grounds for refusing
 7 to allow said debtor to take the oath as aforesaid: *Pro-*
 8 *vided*, That no part of this act shall be so construed as
 9 to deprive any person arrested under a *ca sa.* from hon-
 10 estly and *bona fide* expending what is necessary for the
 11 support of himself or family, during the time the said
 12 *ca sa.* or *ca sas.* are pending.

[Introduced by Mr. S. F. PHILLIPS. Read the first time and passed. Referred to the Committee on the Judiciary, and ordered to be printed.]

A BILL

To establish the competency of certain evidence.

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by authority*
3 *of the same, That no person shall be excluded from*
4 *giving evidence in any matter, suit, or proceeding,*
5 *civil or criminal, by reason of crime, or of any interest*
6 *of such person in the matter in question, or in the event*
7 *of the suit or proceeding in which his testimony may be*
8 *offered; unless such person be individually a party nam-*
9 *ed in the record, to such matter, suit or proceeding; or*
10 *any lessor of the plaintiff, or tenant of premises sought*
11 *to be recovered in ejectment; or the landlord or other*
12 *person in whose right any defendant in replevin may*
13 *make cognizance; or unless such matter, suit or pro-*
14 *ceeding be prosecuted or defended, either wholly or in*
15 *part, in the immediate and individual behalf of such*
16 *person; or unless such person be the husband or wife of*
17 *such party; but when such person is a party, he may*
18 *be a witness, under the rules prescribed by statute.*

II. Whenever any action, suit, or proceeding shall be
 2 pending in any Court of Law, and either party shall
 3 make and file with the Clerk of such Court, or with the
 4 Clerk of the Court in which any issue joined therein
 5 shall be triable, an affidavit setting forth that any facts,
 6 material to the issue or question to be tried, are within
 7 the knowledge of any other party to such suit or pro-
 8 ceeding, and that there is no competent witness whose
 9 testimony he can procure, by whom such facts can be
 10 proved, the parties to such suit or proceeding, and any
 11 persons interested in the event thereof, may be examin-
 12 ed on oath in relation to such facts.

III. Upon the filing of such affidavit, such party or per-
 2 son interested may be compelled to appear and testify in
 3 relation to the facts set forth in such affidavit, in the
 4 same manner that other witnesses may be compelled to
 5 appear and testify as witnesses.

fact

[Introduced by Mr. LANDER. Referred to the Committee on the Judiciary, and ordered to be printed.]

A BILL

To enable the Chairman in any County Court in this State to sue for injuries done Public Buildings belonging to the same.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That, hereafter, the legal title of all court houses, jails, and poor houses, public bridges, and all other public buildings, and works belonging to any county within this State, shall be vested in the chairman of the County Court, and his successors in office of the county in which the same are, or may be, situated, so as to enable the chairman of the county court to sue for injury done to the same, subject to all the uses and benefits as herein-before provided for by law.

II. *Be it further enacted,* That, if any person or persons, either wilfully or negligently, shall, in any way injure, deface, mutilate, or destroy, any public building

4 or work, in any county within this State, it shall and
 5 may be lawful for the chairman of the county court of
 6 the county in which the same may be done, to sue in
 7 any court of record in said county, in the name of the
 8 chairman of the county court, any person or per-
 9 sons so injuring, defacing, or destroying, any public
 10 building or work, in an action of trespass, and recover
 11 from him, her, or them, such costs and damages as the
 12 said county may have sustained thereby, for the use and
 13 benefit of said county.

III. *Be it further enacted*, That this Act shall take effect
 2 from and after its ratification.

[HOUSE DOCUMENT, No. 37.]

RESOLUTIONS

RESPECTING

THE PUBLIC LANDS.

[Introduced by the Hon. R. M. SAUNDERS.—Ordered to lie on the table, and be printed.]

Whereas, The Democratic Convention at Baltimore Resolved, "That the Constitution does not confer upon the General Government the power to commence and carry on a general system of Internal Improvements," and "That the proceeds of the Public Lands ought to be sacredly applied to the national objects specified in the Constitution:" *And Whereas*, The Whig Convention Resolved, "That, the Constitution vests in Congress the power to open and repair harbors, and remove obstructions from navigable rivers; and it is expedient that Congress shall exercise that power—*whenever such improvements are necessary for the common defence, or for the protection and facility of commerce with foreign Nations, or among the States; such improvements being, in every instance, national and general in their character:*" *And Whereas*, the opening of an Inlet

at Nag's Head, in the language of President Jackson's Maysville Veto Message, "being of a general, not local, National, not State character":—

Be it, therefore, Resolved, That our Senators and Representatives in Congress ought,—in the opinion of this General Assembly,—to apply and vote for an appropriation of five hundred thousand acres of the public lands, or so much thereof as may be necessary, to open said Inlet, at or near Nag's Head, in this State.

Resolved, further, That the policy of granting the public lands to actual settlers, and of making large appropriations of the same to works of Internal Improvements, within particular States, is unjust, unequal, and impolitic, and, if persevered in by Congress, renders it the duty of the Representatives of the other States to claim an equal distribution of the Public Domain, by the adoption of such a system as shall do equal justice to all: either by a distribution of the lands, or by a deposit with the States of their proceeds; to be invested by the Legislatures in such stocks as they may direct, and to be returned, whenever called for, in such stocks as may have been selected.

[Introduced by Mr. ALBRIGHT. Passed its first reading ; referred to the Committee on the Judiciary ; and ordered to be printed.]

A BILL

To protect the good citizens of this State against a great Nuisance.

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by the autho-*
3 *rity of the same,* That it shall not be lawful for any per-
4 son to sell or retail any spirituous liquors, or wine, of a
5 less quantity than five gallons, within one mile of the
6 dwelling house of any person, without the consent, first
7 had, in writing, of the owner of the land whereon it is
8 proposed to sell or retail such liquors or wine ; or of the
9 owner of the lands contiguous to that part of the public
10 road where it is proposed to sell or retail such spirituous
11 liquors or wine ; and if any person shall violate the pro-
12 visions of this Act, he shall be liable to be indicted, and,
13 on conviction, be fined, or imprisoned, or both, at the
14 discretion of the court.

[Introduced by J. Turner, Jr. Passed the first reading, and referred to the Committee on the Judiciary, and ordered to be printed.]

A BILL

To compensate the owners of slaves who may be executed.

1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by authority of the same,* Whenever, on the trial of any slave for a capital offence, the jury return a verdict of guilty, the presiding Judge shall cause the same, or another jury, to be empannelled, and sworn to assess the value of such slave, which assessment, with the verdict, shall be entered on the minutes of the Court; and the owner of such slave, or his personal representative, on producing to the Comptroller a transcript from the records of the Court duly certified by the Clerk and the certificate of the Sheriff, that such slave has been executed, according to his sentence, shall be entitled to receive a warrant on the State Treasurer for two-thirds of the amount assessed by the jury.

II. *And be it further enacted,* That, whenever the prosecuting officer has good cause to believe that the owner

3 is to blame for the offence committed by the slave, it
 4 shall be his duty to introduce evidence to establish the
 5 fact; and if the jury so find, the master shall receive
 6 no compensation.

III. And, when a slave is executed on a charge of insur-
 2 rection or rebellion, the owner shall not be entitled to
 3 receive any compensation from the State.

[Blank and subject are referred to as upon the table and
is printed]

REPORT
FROM THE COMMITTEE ON
INTERNAL SECURITY

[Faint, illegible text block]

The Committee on Internal Security to whom was
referred the bill to amend the Act (and the testimony
thereof) entitled "an Act to improve Cape Horn and Deep
River, Iowa" (H. R. 10000) have had the same under con-
sideration and have the honor to report the bill with
amendments thereto, and to recommend its passage.
W. H. AVERY, Chairman

[Report and substitute ordered to lie upon the table, and be printed.]

A REPORT
FROM THE COMMITTEE ON
INTERNAL IMPROVEMENTS.

The Committee on Internal Improvements to whom was referred the Bill to amend an Act (and the supplement thereto,) entitled "an Act to improve Cape Fear and Deep Rivers above Fayetteville," have had the same under consideration, and have instructed me to report the Bill herewith appended, marked "A," as substitute for the original bill, and to recommend its passage.

W. W. AVERY, *Chairman.*

185
[“A.”]

A BILL

To amend An Act (and the supplement thereto,) entitled
“An Act to improve Cape Fear and Deep Rivers above
Fayetteville.”

WHEREAS, the capital stock of the company, authorized
by said act, has been found insufficient to complete the im-
provements contemplated: AND WHEREAS, it is of vital
importance to the State, as well as to individual stockhol-
ders, that said work should be carried on to its final com-
pletion, as well to save the stock already subscribed, as to
promote the interests of a large number of the citizens of
the State: Therefore,

I. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by authority*
3 *of the same,* That the capital stock of the Cape Fear
4 and Deep River Navigation company, may be increased
5 to three hundred thousand dollars.

II. *Be it further enacted.* That the sum of eighty thou-
2 sand dollars shall, and may be subscribed by the Gover-
3 nor of the State, on behalf of the State; and the sum of
4 forty thousand dollars shall, and may be subscribed in
5 the first instance by individuals, in shares of one hundred
6 dollars each.

III. *Be it further enacted,* That whenever it shall be
2 certified by the President of said company, under the
3 corporate seal of the same, and countersigned by the
4 treasurer thereof, that the sum of twenty thousand dol-
5 lars has been subscribed by individuals, and paid into
6 the treasury of said company, as part of the additional
7 stock subscribed under this act, the treasurer of the
8 State is hereby authorised and required to pay to the

9 treasurer of said company, the sum of forty thousand
 10 dollars, as an instalment on the stock subscribed on be-
 11 half of the State, as hereinbefore directed; and when-
 12 ever it shall be certified, in like manner, that the further
 13 sum of ten thousand dollars has been subscribed and
 14 paid in, as aforesaid, on behalf of individuals, the trea-
 15 surer of the State is hereby authorised and required to
 16 pay, as aforesaid, the further sum of twenty thousand
 17 dollars; and that, when it shall be certified, in like man-
 18 ner, that an additional sum of ten thousand dollars has
 19 been subscribed and paid in, as aforesaid, by indivi-
 20 duals, the treasurer of the State is hereby authorised
 21 and required to pay, as aforesaid, the remaining sum of
 22 twenty thousand dollars.

IV. *Be it further enacted*, That, inasmuch as individu-
 2 als have heretofore advanced money for the Company,
 3 for the prosecution of said improvement, such persons,
 4 by releasing said Company from the same, shall, and
 5 may be allowed to subscribe the amount of their res-
 6 pective claims as aforesaid, as stock in said company;
 7 and, for the purpose of ascertaining the amount advan-
 8 ced as aforesaid, a Board shall be constituted, to be com-
 9 posed of two Commissioners—one appointed by the
 10 Governor of the State, and the other chosen by the in-
 11 dividual stockholders of said company—whose duty it
 12 shall be, to examine and pass upon the validity of the
 13 claims, preferred on account of monies advanced to
 14 said company; and said Board shall furnish each claim-
 15 ant with a certificate under their hands, setting forth
 16 the amount due him or her from said company, and
 17 upon the execution and delivery to the Treasurer of
 18 said company of the releases hereinbefore directed, such
 19 releases, when approved by the President and Attorney
 20 of said company, shall be taken and received on pay-
 21 ment of stock, to the amount of the certificates fur-
 22 nished by said Board.

V. *Be it further enacted*, That, if the sum of one hundred and twenty thousand dollars should be found insufficient to complete said improvement, an additional sum of thirty thousand dollars may be raised by said company, either by procuring subscriptions of stock on the part of individuals, so as to increase the capital stock to three hundred and fifty thousand dollars, as by this Act authorised, or to issue bonds in the name and behalf of the company, signed by the president, with the corporate seal of the company, and countersigned by its treasurer, in such sums, not exceeding in the aggregate thirty thousand dollars, and upon such terms as the president and directors shall and may prescribe: and the president and directors are hereby authorised to pledge the nett proceeds arising from tolls, or the property of the company, for the redemption of said bonds.

VI. *Be it further enacted*, That, whenever the sum of eighty thousand dollars shall have been subscribed, and paid in, on behalf of the State, as herein prescribed, the Governor shall be authorised to appoint three Directors on the part of the State: and the individual stockholders shall and may appoint three directors on their part.

VII. *Be it further enacted*, That this Act shall take effect from and after its ratification.

(Read first time and passed; referred to the committee on Education, and ordered to be printed.)

A BILL

To Provide for the Education of Common School Teachers.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That, upon condition that Wake Forest College, Normal College, and Davidson College, will each educate twenty-seven young men, free of charge, said young men to be selected as hereafter described: the Directors of the Literary Fund are hereby directed to pay to the trustees of each of said colleges, the sums to which their respective tuition would amount at their ordinary rates.

II. *Be it further enacted,* That the Board of Superintendents of common schools, in each county in the State, shall select such young men, one for each county, as they deem proper, and that said young men, thus selected, shall be allowed to determine which of the colleges they will attend the Board of Superintendents shall give each young man selected; a certificate of the fact, stating the length of time he shall remain, and each college shall receive every young man thus authorised, provided it had not already twenty-seven such persons in attendance.

III. *Be it further enacted,* That each young man shall,
 2 before receiving his certificate of election, sign a pledge
 3 to be kept by the chairman of the Board, in the fol-
 4 lowing words, namely, "I hereby pledge myself to
 5 teach school for twelve months, in some part of this
 6 State."

IV. *Be it further enacted,* That the Board of Superin-
 2 tendents of Common School shall, in the selection
 3 of the young men to be educated in the manner afore-
 4 said, prefer those whose indigent circumstances would
 5 prevent them from otherwise obtaining the benefit pro-
 6 posed to be conferred by the passage of this bill, as well
 7 as those whose mental capacity should entitle them to
 8 the selection.

V. *Be it further enacted,* That this act shall take ef-
 2 fect from and after its ratification.

REPORT

OF THE

COMMISSIONERS

OF THE HOSPITAL FOR THE

INSANE.



RALEIGH:

SEATON GALES, PRINTER TO THE LEGISLATURE

— 1852

[Transmitted to the Senate, with a proposition to print.
Ordered to be printed]

REPORT

*To the Honorable the General Assembly of the
State of North Carolina :*

Since the last session of your honorable body, the construction of the building intended for the Hospital has progressed with as much rapidity as the means placed under the control of the commissioners, and a due regard to the permanence of the structure, justified. The central building is now nearly covered in ; the northern wing is in a state of considerable forwardness ; and the foundation of the southern wing is completed. The work, so far, is well done, and of durable materials, and the plan, though it may not be perfect, is, upon the whole, liable to as few objections, and is believed to combine as many advantages as most other buildings of the kind in the United States.

There has been expended, on account of the hospital, in the purchase of land, workmanship and materials, up to the present time, the sum of \$49,167 27 ; and, as it appears from the report of the Public Treasurer, the whole amount of tax levied for this purpose, is \$80 752 26, there remains in the treasury an unexpended balance of \$31,584 99, applicable to this building.

It will be seen, on reference to the statement of Mr. J. W. Conrad, the master builder, that the estimated cost of the building is, in round numbers, \$140,000. So that, after appropriating the whole amount of the tax levied for this purpose, there will be required, the additional sum of \$60,000, to complete it.

As the act, for raising the funds for this purpose, expires, by its own limitation, during the present year, it is absolutely necessary that some provision should be made during the present session, to supply this deficiency.

The commissioners have endeavored to exercise the strictest economy in the execution of the work, and have devoted to it as much of their personal attention, as their engagements would permit ; but they have no doubt, if the

recommendation contained in their report to the last Legislature had been adopted, to authorise the employment of a competent superintendent, with a sufficient salary, many errors might have been avoided, and money might have been saved.

It will be seen, on reference to that report, that the commissioners distinctly apprised the Legislature that such a building as that contemplated by the act, could not be constructed for the sum proposed : for they say in that report : "From the best information, they have been enabled to acquire, the commissioners are satisfied, that a building, calculated to accommodate the number of patients required by the act establishing the hospital, cannot be constructed and furnished for the sum which is understood to have been contemplated by the Legislature," and "with the view of curtailing the size of the building, if it should be thought advisable to do so, the commissioners have, as yet, confined their operations to the central building, and a portion of each wing, which they believe can be constructed within the sum provided, and which will be calculated to accommodate one hundred and twenty patients. Whether it is advisable to construct, at first, a building of this size, to be added to as occasion may require, or whether it is best to carry out the original design, is a matter submitted to your consideration."

They further stated in that report, that "the importance of this undertaking, and the slight experience they have thus far had in its prosecution, have satisfied the commissioners that it is impossible to have the work faithfully and properly executed without the aid of a competent and skilful superintendent, who should be acquainted with the details of works of this kind, and should devote his whole time and attention to it ; and they would respectfully recommend, in making such appointment, that a physician of skill and reputation should be selected, who should be competent to take charge of the Institution when completed ; and the commissioners avail themselves of this occasion to

say, that without such superintendant, it is impossible for them to carry on the work, as they have neither the time nor experience required to do so."

The Legislature did not think proper to give any instructions upon these subjects to the commissioners, nor did they authorise the appointment of a superintendent, so that they were compelled as well as they could to carry out the provisions of the act; and they respectfully suggest, that if any errors have occurred, the fault should not be attributed to them. They now again urge upon your honorable body, the adoption of the suggestions then made, not as a matter of expediency, but of absolute necessity, as it is impossible for them or any other set of commissioners to carry on the work, without such an officer. They would however suggest, whether it would not be as well for the Legislature to appoint the Board of Trustees contemplated by the act, and confer upon them the power and authority of appointing one or more superintendents, with competent salaries, to carry on the work, as they believe that both economy and a proper regard to the comfort and accommodation of this unfortunate class of persons will be consulted by adopting such a course.

Since the last session, two of the commissioners, Dr. Thomas N. Cameron of Fayetteville, and Dr. Josiah Watson of Raleigh have died, and as there was no power given to any one to supply vacancies, their places have not been filled.

Some objections, it is understood, have been made to the magnitude of the building, but on reference to the plans, it will be seen that it is not too large to accommodate the number of patients required.

All of which is most respectfully submitted,

JOHN M. MOREHEAD,
G. W. MORDECAI,
C. L. HINTON,

Commissioners.

ESTIMATE

For Lunatic Asylum, Raleigh, November 18, 1852.

		EXECUTED.
Masonry & stone cutting,	\$10,000	\$9,500
Brickmaking and laying,	45,000	26,000
Wood work,	45,000	18,000
Plastering,	9,000	
Tin and copper work,	8,500	2,500
Land \$2,000 and Lime 4,000,	6,000	4,000
Cast iron sash,	2,000	
Hardware,	1,500	
Painting,	3,000	
	<hr/>	<hr/>
	\$130,000	\$60,000
Deepening, plumbing, exca-		
vating drafts, with other		
contingencies,	\$10,000	
	<hr/>	
	\$140,000	
	J. W. CONRAD.	

REPORT
OF THE
PRESIDENT AND DIRECTORS
OF THE
NORTH CAROLINA
RAILROAD COMPANY,
TO THE
LEGISLATURE.



RALEIGH:
SEATON GALES, PRINTER TO THE LEGISLATURE.

1852.

REPORT

To the Honorable the General Assembly of the

[Transmitted to the Senate with a proposition to print.
Ordered to be printed.]

I am the organization of the company at Salisbury in July 1850, according to the provisions of the charter and the election of the directors, they proceeded forthwith to the election of one of their body to the Presidency, and to the appointment of a chief engineer. Major Walter Gwynn, with instructions to him, to organize such engineering corps as would expediently determine the best route for the road, having due regard to the points designated in the charter.

The chief engineer, having examined himself that the most direct route between Raleigh and Salisbury, two points designated in the charter, was impracticable; at least so far as the means of this company were concerned; oriented a thorough reconnaissance of the country to the North of the direct line, and to the end that it might be through the route was divided into four divisions of about fifty six miles each; the divisions extending

R E P O R T

To the Honorable the General Assembly of the

State of North Carolina :

Although, by the terms of their charter, the North Carolina Railroad company are not required to report to your honorable body the progress of their work ; yet, the President and Directors deem it due to you, the legislative body of the State, as well as the representatives of the people, who have so generally manifested a deep and abiding interest in this great work, to lay before you a report of the proceedings of the stockholders, and of the progress, present condition, and future prospects of the work, to its final completion.

Upon the organization of the company, at Salisbury, in July 1850, according to the provisions of the charter, and the election of the directors, they proceeded forthwith to the election of one of their body to the Presidency, and to the appointment of a chief engineer, Major Walter Gwynn, with instructions to him, to organise such engineering corps as would speedily determine the best route for the road, having due regard to the points designated in the charter.

The chief engineer, having satisfied himself that the most direct route between Raleigh and Salisbury, two points designated in the charter, was impracticable ; at least so, so far as the means of this company were concerned ; ordered a thorough reconnoissance of the country, to the North of the direct line, and to the end that it might be thorough, the route was divided into four divisions of about fifty-six miles each ; the divisions extending—

1st. From the Wilmington and Raleigh Railroad, to six miles West of Raleigh ;

2d. From that point to the Guilford line ;

3d. From this point to Lexington ;

4th. From Lexington to Charlotte ;

in all a distance of two hundred and twenty three miles, and by the 18th of September of that year, four corps of engineers were in the field, one on each division, who brought their labors sufficiently to a close, by the 12th of May, 1851, as to enable the chief engineer to make his report to the Board of Directors, by the 16th of that month, which report was approved by them, and a copy of which, in pamphlet form, accompanies this report, and to which they refer, and make a part of the same.

The promptness and energy displayed in the organization of these corps, and the bringing them so quickly into the field, satisfied the directors with the choice they had made of a chief engineer, and the fidelity, ability and unsurpassed industry with which these corps discharged the duties assigned them, evinced the sound judgment manifested in their selection and organization.

In July of that year, the grading, masonry, &c., of the greater part of the road, was put under contract after due advertisement.

As our citizens along the whole line of the road had taken a deep interest in the success of the work, manifested, not by the mere expressions of good wishes for its success, but by large and liberal subscriptions to its stock, thus seconding the generous munificence and patriotic views of the State, with their own sound judgment, and purses, the directors thought it due to them, individually, as well as to the interest of the commonwealth, to so arrange the contracts for the construction of the road, that our own citizens might execute the work with the labor of the country.

Accordingly, each division was sub-divided into sections of small distances, and estimates made of the probable amount of work on each section, and thus, were these sec-

tions let out to contractors along the whole line of the road.

The directors are fully confirmed in the correctness of their course, by its success, as will fully appear from a subsequent part of this report, shewing the amount of work done on the several divisions, and the time within which it was done.

As the contracts could not be let out earlier than July of last year, when the labor of the country was mostly engaged for the year in other pursuits, contractors, generally, were required to commence work in January last, and to complete their contracts by January 1854.

But, as it was exceedingly desirable to have the two extremes of the road completed at as early a day as practicable, so that the iron for this road might be brought by other railways, from the ports of Wilmington and Charleston, to the two ends of this road, and thus enable the Board to commence laying down the rails at both ends at the same time, and expedite the progress of the work, to effect that object, the Board of Directors entered into a contract with Messrs. John C. McRae & Co., to construct the entire road on the first division, with a T rail, of sixty pounds per linear yard, with depots, water stations, &c., complete, at the estimate of the engineer, and the contract is to be executed by the first of January, 1854.

These gentlemen entered upon their contract in January last, and from their progress, it is confidently believed they will fulfil their engagements, whereby the road may be put into full operation from Goldsboro' to a point six miles west of Raleigh, by or before the first of January, 1854.

The iron for this part of the road was fortunately engaged by these contractors before the late extraordinary rise in the prices of rails, at forty dollars and a half per ton, and the delivery of the rails was to commence during the latter part of the present year.

The contractors, at and near Charlotte, are required to complete their grading by the first of next January, and although some of the contractors between Charlotte and Salisbury have until January 1854 to complete their contract—yet, such has been their zeal in the work, that no part of the line is in as much forwardness, as a part of that division. No doubt is entertained that the grading will be ready for the superstructure on the whole line of the fourth division, at as early a day as it will be practicable for the Board to lay down the rails.

A purchase of four thousand tons of similar rails has lately been made, to be delivered in March, April and May next, in the city of Charleston, at forty-four dollars and seventy-five cents per ton, exclusive of duty. It is to be regretted, that the company were not in funds during the last Spring, when rails could have been purchased at thirty nine dollars per ton, delivered free of all charges.

The Board expects to be ready to commence laying the rails at Charlotte, as soon as they arrive there, and to complete the road to Salisbury during the next year; and the grading of the balance of the line will be ready for the superstructure before it will be required, as the rails cannot be delivered along the line farther than the superstructure progresses.

The bi-monthly estimates of work done upon the road up to the first of November inst., as reported to the Board by the Engineers resident along the line and in charge of the work, are as follows:

On the 1st division,	104,086 45
Do 2nd do	118,823 50
Do 3rd do	120,530 95
Do 4th do	150,285 22

Total amount of estimates,	\$493,726 12
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of which have been applied to the payment of stock	320,442 00
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Leaving unapplied and unpaid,	\$173,284 21
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Thirty-five per cent. on the stock subscribed, have been required during the present year prior to Nov. inst., which, if punctually paid, with the five per cent. paid at the time of subscription, would have raised the \$500,000 required to be paid by the stockholders, before the State subscribed to the stock of the road, but the Board regretted to find at their meeting, held in this city on the 18th inst., that only \$452,000 have been paid.

They therefore, passed the necessary orders to enforce the immediate collection of deferred payments, and made another requisition of ten per cent., payable on or before the 20th Dec. next, and adjourned to meet in this city on the 8th proximo; by which time, no doubt is entertained, that more than \$500,000 of the stock subscribed by individuals will have been paid into the treasury.

As most of the contractors were stockholders, and intended to work out their stock, it was evident not much money would be paid into the treasury applicable to the payment for work, until the State should subscribe and pay in her stock; contracts were therefore made accordingly, that no money was to be paid to contractors for their work, until after the payment of the first half million of dollars into the treasury of the company by the State; consequently no contractor has yet received from the company the first dollar towards the work done; and yet, two-thirds, if not three-fourths of the grading will be done during the present year: certainly an anomaly in Railroad building—do the work first and raise the means to do it with afterwards.

And here, the Board would most respectfully call the attention of your honorable body to a few reflections, suggested by the foregoing statement of facts.

For months after the passage of the act chartering the North Carolina Railroad Company, it was looked upon as a dead letter upon your statute book. The terms imposed upon stockholders were deemed rigid in the extreme; the State refused to become a partner in the concern, until individuals should raise one million by subscription, pay half

that sum, and actually commence the work. Capitalists, with a few noble exceptions, looked with indifference upon the scheme, and the charter would have been now a dead letter, but for the exertions of a number of patriotic citizens of the State.

The attention of the public was finally directed and enlisted in this great work, by dint of public addresses and Railroad conventions, whereby the stock was secured some eighteen months after the passage of the act of incorporation, by the subscriptions of upwards of eleven hundred of our fellow-citizens. From that moment, their zeal in the cause became enlisted, and you have a history of the progress of the work in the facts already stated—a history worthy of the philosophic consideration of the Patriot and Statesman.

This great work, which in most States, without aid from the general government, would have been deemed a gigantic undertaking, has been commenced, not by the mass of the people of the whole State, nor even of the counties through which the road passes, but by an exceedingly small portion of our people; and what do we behold? A call upon the stockholders for fifty-five per cent. of this subscription in less than one year, and that call met by unparalleled promptitude! A gigantic work, two-thirds or three-fourths executed, in less than one short year, without the introduction of any foreign labor whatever, except masons, and that too a year of oppressive scarcity, and consequent prices, where food for the laborer has been difficult to obtain, and when the contractor, unable to procure the grain, has been compelled to unbarrel his superfine flour to sustain his exhausted teams; unaided from any quarter, with limited means, and straitened credit, the contractor has found it to him a year of deep gloom, but not of despondency; his indomitable spirit has been equal to the occasion, and has triumphed over every difficulty! Not only has the work been done, but more acres have

been planted, they have been better cultivated, and thanks to a kind Providence for the blessings showered upon us, they have been more productive than in any former year.

How has this mighty result been effected? By awakening the slumbering energies of the people, and bringing into active exertion the surplus labor of the country.

The people are ready, everywhere ready, to second the projects your judgement may approve and your actions may sanction. Many are like the church-going sinner, "who went to scoff and remained to pray."

North Carolina is rich in moral and intellectual wealth, in the fertility of her soil, and the varied productions of her climate, in her quarries of granite, marble, limestone, and beds of marl, in her exhaustless coal fields and mountains of iron, in her unnumbered veins of the precious, as well as of the baser metals; in her cascades and waterfalls, in her navigable sounds, bays and rivers; and in the possession of a port not surpassed by any on the Atlantic coast, for facilities to commerce. But North Carolina is not rich in hoarded surplus capital; the peculiar position of her territory, and the manner in which her noble rivers traverse that territory, have hitherto, to a great extent, rendered most of them useless, and prevented her from the development of her vast resources, whereby her wealth could accumulate.

The application of steam to transportation on railways, is to her, the question of all questions, the desideratum of all desiderata, the link by which the blue mountain of the West, shall unite with the blue wave of the East; and whatever plan or scheme will tend to aid and encourage the construction of these great highways—all in all, to North Carolina—deserves the most profound attention and philosophic consideration.

The Board cannot but hope, that the success which has attended their mode of letting contracts will stimulate and encourage similar enterprises. Whilst they have been en-

abled to have their work done, upon terms which will compare favorably with similar works of the country, they have found the citizens ready, aye, anxious, to engage in the contracts—often a dozen bidders for the same section. Our people have the spirit to undertake and the nerve to execute, any work your judgements may approve. They are ready to drive through the mountains, to level the hills, to fill up the valleys, to make the rough places smooth, if you will but compel the laggard wealth of the State to aid them in the superstructure.

Let our people, our whole people, be aroused to the importance of any work, and it will be done, regardless of its magnitude.

Then, ere long, it is to be hoped, that great lines of railways will reach from one extremity of our State to the other; their eastern termini resting in our ports, their western passing the mountains, and resting—resting on—resting nowhere; but uniting with other improvements, will still stretch westward as boundless as the continent they occupy. Then North Carolina will be North Carolina indeed!

The Directors cannot close this communication to your honorable body, without availing themselves of the opportunity to express their high admiration of the enduring zeal and indomitable spirit with which the contractors have seconded their efforts, to bring this work to a speedy and successful termination; and to recommend to your favorable consideration, the timely adoption of a measure of minor importance to the State, but of vital importance to the contractors.

At Christmas, or on New Year's day, most of the hire for the present year falls due, and on those days the hiring of hands for the next year likewise takes place. It is important to the success of our work, that contractors should have every facility to get hands. Nothing will aid them more to procure them, than the prompt payment of the hire due for the present year. This aid can come from

you, and from you alone. Your treasurer will not be able by the times above specified, to pay into the treasury any portion of the State's subscription, arising from the sale of the State's bonds, as prescribed by the charter, without a sacrifice of the bonds by advertising them too short a time for sale. The payment into the treasury, a few weeks after the new year, will not meet the exigency of the occasion. The man who hired his hands for the present year, and receives not the hire when due, will hesitate to hire them again to the same contractors.

Many contractors have exhausted their means, and straitened their credit; they have done the work, the money is due them, to be paid so soon as the State's subscription reaches the treasury.

A resolution of your honorable body, directing the public treasurer to pay to the treasurer of this company, forthwith, one hundred thousand dollars, in advance of a much larger payment to be made a few weeks hence, upon the sale of the State's bonds, will render the aid so much desired and needed. You have the funds now lying idle in the public treasury, which may be replaced by the first sales of bonds.

Exhibit A. shows the various items upon which the chief engineer predicated his estimates for the entire cost of the road.

Exhibit B shows the amount of force employed upon the work on the first instant.

All of which is most respectfully submitted.

J. M. MOREHEAD,

President of the N. C. Railroad.

[A.]

Estimated Cost of the North Carolina Railroad, 223 miles long.

	1st. Division.	2d. Division.	3d. Division.	4th Division.	Grand Total.
Graduation, including drains, Bridging and arched culverts, Cattle Guards, Depots and Water Stations, Road crossing and changes of r'ds,	172,679 16 36,542 25 2,850 00 8,000 00 2,000 00	232,325 73 64,293 25 3,000 00 5,000 00 2,500 00	281,869 32 77,969 50 3,750 00 5,150 00 1,850 00	277,391 96 161,764 50 3,225 00 8,500 00 8,042 50	\$ 964,266 17 340,569 50 12,925 00 26,650 00 14,392 50
Track, including turnouts, Engineering and superintend'ce, Contingencies, Land damages,	222,071 41 362,112 00 33,318 00 23,207 14 10,000 00	307,118 98 394,240 00 42,112 00 31,211 02 5,000 00	370,588 82 323,584 00 34,202 00 36,432 68 6,000 00	458,923 96 406,400 00 41,918 80 46,892 40 10,000 00	1,358,703 17 1,486,336 00 151,550 80 137,743 24 31,000 00
General shops for repairs, &c. Equip. of road, locomotives, &c.	\$ 650,708 55	\$ 779,682 00	\$ 770,807 50	\$ 964,135 16	3,165,333 31 100,000 00 139,800 00
Total cost,					\$ 3,405,133 21

[B.]

Statement of the Force Employed upon the North
Carolina Railroad, November, 1852 :

Division.	Men.	Boys.	Carts.	Wa- gons.	Horses and Mules.	Oxen.
1.	386	58	123	16	182	8
2.	291	78	98	13	131	32
3.	354	118	170	10	172	
4.	462	171	190	10	273	14
	1493	425	581	49	758	54

R E P O R T

O F T H E

C H I E F E N G I N E E R

ON THE SURVEY OF

THE N. C. RAILROAD,

MAY, 1851.

RALEIGH:

SEATON GALES, PRINTER TO THE LEGISLATURE

1852.

NORTH CAROLINA RAILROAD.

...

At a meeting of the Directors of the North Carolina Railroad Company, at Raleigh, had on the 12th and continued to the 16th of May, the Report of the Chief Engineer, of the Survey and Location of the said Road, was made to the Board and adopted, and ordered that three thousand copies of said Report be printed for distribution.

The line of the Road, as recommended by the Chief Engineer, commences at the Wilmington and Raleigh Railroad, passes by Waynesboro', crossing the Neuse about four miles above Smithfield, by Raleigh, Crabtree Bridge, Hillsborough, Graham, Greensborough, Lexington, Salisbury, Concord, to Charlotte—223 miles in length.

It was further ordered, that the President and Chief Engineer let the contracts for all the grading, masonry, bridging, and timber for superstructure, to be completed by the 1st of January, 1854, unless longer time be given by the Board.

REPORT
OF THE
CHIEF ENGINEER.

RALEIGH, May 5th, 1851.

*To the President and Directors of the North Carolina
Railroad Company.*

GENTLEMEN:—I have the honor to submit the following report of the progress and results of the surveys for the North Carolina Railroad.

Acting under your instructions to me of July 13th, I proceeded to organize four parties of Engineers. To give efficiency to these parties, devolve due responsibility, and incite a laudable emulation, I gave to each party acting under my instructions a separate and independent charge, and to this end the line was divided into four divisions.

The First Division commences at the Wilmington and Raleigh Railroad and terminates six and a half miles west of Raleigh. The Second Division commencing at the last named point, extends to the Guilford county line. The Third Division thence to Lexington, and the Fourth Division from Lexington to Charlotte. The duty of surveying and locating these divisions, was assigned respectively to Mr. Lewis M. Prevost, Jr., Mr. John C. McRae, Mr. J. L. Gregg, and Mr. John McRae, with the rank of Principal Assistants. Each party was furnished with the necessary Assistants, Draftsmen, Rodmen, Chainmen, and Axemen.

Mr. Prevost was sent to the field on the 21st of August, Mr. John C. McRae on the 26th of the same month, Mr. Gregg on the 18th of September, and Mr. John McRae on the 27th of August.

The aggregate number of miles run by these parties, including the experimental surveys, the approximate and final location, amounts to 1494 miles. When it is remembered that the period of their employment embraced the inclement season of the late fall months, and the winter and early spring months, the amount of labor they have performed cannot but prove satisfactory, and it fully attests the energy, industry, and fidelity on the part of the heads of the respective parties.

The conditions imposed by the Charter, make Raleigh and Salisbury intermediate points in the line of the road. By a resolution of the stockholders at their meeting held in Salisbury on the 12th of July, instructions were given to ascertain by actual survey whether a route passing near the towns of Hillsboro', Graham, Greensboro', Lexington and Concord, all things considered, would not be the most practicable. Keeping these instructions before me, regarding them however as imperative only so far as respects the requirements of the Charter, to construct a Railroad from the Wilmington and Raleigh Railroad *via* Raleigh and Salisbury to Charlotte, and only as absolute under the directions of the stockholders, to ascertain the practicability in comparison with other routes, of a location through the towns of Hillsboro', Graham, Greensboro', Lexington and Concord, and not by any means as restricting the location to those towns. The line would occupy precisely the ground which it does had no allusion to those towns been made in the proceedings of the stockholders. I explored or caused to be examined every route between the Wilmington and Raleigh Railroad, and Charlotte, *via* Raleigh and Salisbury, which I thought at all feasible, and surveyed every line that in my judgment was deemed necessary to the attainment of the most practicable route, and the results

of those examinations it is now my purpose as briefly as may be to lay before you. But it may be pertinent before entering upon a description of the lines which were surveyed, to submit a few remarks upon the general features of the intermediate country between Raleigh and Salisbury, and their influence upon the location. An inspection of the map of the State will shew that a straight line between Raleigh and Salisbury is crossed by the waters of the Haw and Yadkin rivers, and by their almost innumerable tributaries, embracing among the most conspicuous, with their branches, New Hope, Rocky Deep and Uharic rivers. Any one who has travelled the direct road from Raleigh to Salisbury, by Pittsboro' and Ashboro', must have indelibly impressed on his mind the many "ups and downs" which he encounters, and it must have occurred to him when slowly climbing up the hills which ever and anon rise before him, how much the road might be improved by winding around them through some of the numerous ravines which constantly present themselves on the one hand or the other. These hills which so much obstruct the common road, and the graduation of which to easy grades, would render it so serpentine and devious, and carry it so much out of the direct course, would affect in a much greater degree the route of a railroad; no line of any extent either level or of a given inclination to the horizon could be maintained, without resorting to a continued succession of heavy cuttings and fillings, and an infinite series of abrupt curves. In many places the ridges and hills that would be crossed are composed of gravel intermixed with stones and not unfrequently they are formed entirely of rock, which would add greatly to the expense of graduation.

The extent of these difficulties may be regarded as unlimited on the South towards which the water courses that are crossed flow; in search of a route, on the North, there is no medium short of the sources or nearly so of the principal tributaries above mentioned of the Haw and the Yadkin. Being satisfied, therefore, that no line could be obtained on

the direct route, without such frequent deflections as would make it quite as long, that it would be more costly and objectionable both in grades and curvature, than the route around the heads of the water courses before mentioned, that no intermediate route could be found, and that a survey of the direct route would be attended with no better results than loss of time and unnecessary expenditure, I determined to abandon it at once, and make the detour of the ridge, so plainly indicated by the topography of the country as the route for the railroad, which I shall now proceed to describe under four separate heads, corresponding to the four divisions of the line heretofore defined.

FIRST DIVISION.

This Division unites the North Carolina Railroad with the Wilmington and Raleigh Railroad, thus forming a continuous line from the Seaboard, through the heart of the State, and redueing to realization the long deferred hopes of the advocates of a Central Railroad.

The charter requires that the Railroad shall connect with the Wilmington and Raleigh Railroad, where the same passes over the Neuse. The bridge of the Wilmington and Raleigh Railroad, over the Neuse, is united to the main land on each side by trestle work across extensive low grounds, subject to frequent inundations, which affords no secure site for a landing or suitable place for building. As this provision of the charter was evidently intended to unite the Railroad with Steamboat Navigation on the Neuse, and thus extend its benefits, and a participation of its advantages to the lower Neuse, I have, on account of the objections above assigned to a strict compliance with the letter of the charter, directed the approach to the Wilmington and Raleigh Railroad, by the way of Waynesboro', which affords the nearest eligible site to the point where the Wilmington and Raleigh Railroad passes the Neuse, for a landing. Here the channel washes the base of a high

bank, which is rarely if ever overflowed, affording every necessary facility for transshipment. Making Waynesboro' therefore, a point in the location, three lines were run from station 228, four and a half miles West of Goldsboro', to the Wilmington and Raleigh Railroad, one by the way of Goldsborough, and thence to Waynesboro', making Waynesboro' the terminus of the road. One by Waynesborough, to Goldsboro' *direct*, and one by Waynesboro', intersecting the Raleigh Railroad 1.08 miles South of Goldsborough.

There lines are all laid down on the accompanying map, in the order here referred to, lettered A, B and C, and a comparison of their cost, length and grades will be found on a sheet hereto annexed, upon an examination of which it will be found, that the line passing through Waynesboro', and intersecting the Wilmington and Raleigh Railroad, 1.08 miles south of Goldsboro', designated as C, on the map, is 3,887 feet shorter, and will cost \$10,277 less than line A, which stands next in the comparison. Commencing at station 228, the point of divergence of the routes above described, two lines were run to Mount Auburn, ten miles East of Raleigh, one crossing the Neuse river at Smithfield, the other crossing on the lands of Mr. Vinsons, four miles above Smithfield. The result shows 1 mile, 1720 feet in distance, and \$11,000 in cost, in favor of the line by Vinsons'. The rate of grade, and length of straight line, is also in favor of this route. It was therefore selected as the basis of the estimate, and is designated on the map, by the red line.

From Mount Auburn, after a most thorough examination and survey of the country, with a view of obtaining the best route through the city of Raleigh, three lines were selected for comparison, which will be designated as the south, middle, and north lines. The south line runs down Wild Cat branch, crosses Walnut creek near Holleman's bridge, and runs up Rocky branch to its head, passing in the rear of the Governor's and Judge Cameron's residences, and

thence in the vicinity of the Hillsboro' road, to the end of this division, six and a half miles West of Raleigh.

The middle line descends Poole's branch, to its junction with Walnut creek, and after crossing Walnut creek near Mr. Hutchins', it ascends along the slope of the ridge between Walnut and Crabtree, to its summit, in the race-field; thence it follows nearly the course of the ridge, passes south of Mr. Atkinson's, and through Raleigh, by Hargett street, to its re-union with the South line at Judge Cameron's.

The north line is identical with the middle line, until it reaches a point between the race-field and Mr. Atkinson's, it then runs a little south of Mr. Atkinson's, and through Lane street, by the Raleigh and Gaston Railroad Depot, back of the Female Seminary, and connects with the middle and southern lines, near the Haywood road, on the lands of Dr. Cook.

It appears from a comparison of these lines, as exhibited in the accompanying table, that the South line is 1875 feet shorter, and that the cost of graduation and construction, is \$6788 less than the middle line, and that, in comparison with the northern line, the length is 2175 feet, and the cost is \$45,029 in its favor. The maximum grade is the same on all these lines, the grade being rather in favor of the middle route, ascending westward, and about the same in both directions as the Northern line. The curvature is also in favor of the south line, as compared with both of the other lines.

A line was also run uniting the South and North line through Harrington street, which increased the distance over the South line 2750 feet and the cost \$25,511.

The cost, distance and degree of curvature being all in favor of the South line, I am compelled in a professional point of view to give it my preference. There are other considerations however which may properly influence the Board, such as the propriety, probably the necessity and obligation of the Company, to put a depot within the corporate limits of Raleigh, which would be attended with no

serious objections so far as the grades of the road ere concerned on the Middle line ; while on the South line the road ascends with a uniform grade of $47\frac{1}{2}$ feet per mile past Raleigh, upon which the establishment of a depot would be very objectionable, on account of the difficulty in stopping the descending and starting the ascending trains ; and this objection can only be removed by introducing a light grade which can in no other way be effected than by increasing the rate of ascent from Walnut Creek, which would operate against this line ; but as the grade would be in favor of the heavy tonnage, it would still maintain its superiority over the middle line.

Recurring again to the commencement of the line at the Wilmington and Raleigh Railroad, I would recommend the establishment of the depot at Goldsboro', instead of at the point of connection of the roads—for the reasons that the Wilmington and Raleigh Railroad Company, having warehouses already erected at Goldsboro', could without additional expense to them give accommodations that would be a saving to the company.

SECOND DIVISION.

After several trial lines across Crabtree creek which is encountered six miles from the commencement of this division, a line was selected crossing at Jere Morris', thence it ascends along the sloping ground drained into Crabtree to Mr. Robert Witherspoon's on the ridge dividing the waters of New Hope and Neuse rivers, thence the line pursues this ridge, departing from it only at one place to maintain the general direction and at the same time avoid the Brasfield hills which are passed, leaving them a half a mile on the North, at a trifling expense encountered in embanking across two small branches of New Hope. At Desarne's, ten miles east of Hillsboro', two routes present themselves, one pursuing the ridge dividing the waters of the Eno and New Hope rivers, forming an independent line crossing

Haw river at Gilbreath's Ford, and thence to Providence meeting house, designated on the map as the Chapel Hill ridge line. The other passes by Hillsboro', and crossing Haw river at Trollinger's bridge re-unites with the other at Providence meeting house. The routes may be united by a cross line on the ridge dividing the waters of the Eno and Haw rivers by a deflection from the first line at Gravelly Hill, and thus the various routes crossing Haw river, which will hereafter be described, may be made a part of either line and a comparison between the two be made; adopting either of the crossings of the river. Suffice it to say, however, that the result by any combination that could be made would be in favor of the route by Hillsboro', in all the essentials of grades, cost, curvature and distance. I shall therefore dismiss the Chapel Hill route, as it is designated on the map, and confine my observations to the Hillsboro' route, which after it became evident that it would be the preferred route, was subjected to the most elaborate explorations and surveys. The first important enquiry was the pass of the Valley of the Eno, the result of which was the establishment of a crossing at the upper end of the town of Hillsboro', and again just below the bridge near Brown's Mill; thence the line ascends along the side hills of Seven Mile Creek to the ridge dividing the waters of the Eno from those of Back Creek, a branch of Haw river, and along this ridge it is traced to the vicinity of the Orange and Alamance county line. From this point to the Haw river a thorough reconnoissance of the country was made and river examined from the Shallow Ford to Ruffin's Mills. The result of this reconnoissance was the selection of four lines crossing Haw river respectively at Gilbreath's Ford, at the mouth of Freeland's Creek, Conrad Long's and near Trollinger's bridge, all uniting at Providence Meeting House. The first line was abandoned on account of its increased length and cost, and the second for the same reasons, and in addition thereto, in consequence of its objectionable curves and the heavy rock excavations between Back Creek and Haw river. This narrowed down the choice between the two routes crossing at Long's and at Trollinger's bridge, noted on the map as the upper and the lower lines. A comparison of these lines gives the following results, viz: The upper line costs less by \$5,000 and the length is one mile less than the lower line. The lower line has less curvature of the minimum radius and

the length of the maximum grades is less, but these favorable features not being sufficient to counterbalance its increased length and cost, I give the upper line the preference and recommend its adoption. From Providence Meeting House, the line of this division is traced over very favorable ground along the ridge dividing the waters of Haw and Alamance rivers, to its termination on the dividing line between Alamance and Guilford counties.

With the view of cutting off the detour, on the route by Hillsboro', around the head of New Hope, a line was reconnoitred diverging at Parris Yates on this division, one and a half miles from its commencement, passing around Crabtree and by Mr. Bartley Sears', eight miles from Yates', thence along a ridge dividing the waters of North East, New Hope and White Oak Swamp to Mr. Marmaduke Williams', where it crosses New Hope, thence on a ridge between Morgan's and Bolling's creeks, to a point about two miles from Chapel Hill, where the ridge upon which the College is situated rises very abruptly; to ascend to the summit of this ridge either Morgan's or Bolling's are available; having attained the summit, at Mr. Arch. Andrew's, owing to the necessity of exceeding our maximum grades in the passage of Cain and Haw creeks, the line would be compelled to follow the ridge heading these creeks, until it intersects the line heretofore described as the Chapel Hill ridge line, near Mr. Fred. William's, and thence with that line as run. Owing to these frequent deflections this route, although the direct route, would be about two miles longer than the line by Hillsboro', and a comparison of the grades, curvatures and cost would also be against it. This being the result of the reconnoissance, it was not thought advisable to incur the expense of a survey.

THIRD DIVISION.

This division begins on the Alamance and Guilford lines, about one and a half miles north of the stage road on the ridge dividing the waters of Traverse creek from those of Alamance, and continues on this ridge about two miles, thence it descends the Valley of Rock creek which it crosses at its junction with Cedar prong, thence upon the south slope of Cedar prong valley to the summit of the ridge, dividing its waters from Birch creek, thence along the South slope of the ridge, dividing Alamance and South Buffalo creeks, crossing it at the intersection of the Shallowford

and Fayetteville roads. The line then descends to south Buffalo creek, crossing it about one thousand feet below the stage road bridge, thence it ascends to the ridge between North and South Buffalo creeks on which it continues to Greensboro', crossing South street three hundred feet north of the Caldwell Institute, thence on the ridge to station 928 near Mr. Nathan Hiatt's. From this point to Lexington, three lines present themselves for comparison—which we will designate the Fair Grove, middle and Northern lines.

The Fair Grove and middle lines are common to Prospect meeting house; before reaching this point the line crosses South Buffalo near Mr. A. Wilson's, Bull Run a little below the stage road ford, and Deep river 1200 feet below the stage road bridge; thence the line passes a little to the South of Jamestown up the South prong of Big branch to station 1839, a quarter of a mile west of Prospect meeting house on the summit of the ridge between Deep river and the Yadkin. From station 1839 it continues heading nearly the waters of Hunt's Fork, thence it descends along the South slope of the valley of Hambies' creek, crossing the Raleigh road near Fair Grove meeting house and continuing upon the north side of the road to a point near the house of Mr. Smith Curry, thence keeps near the Raleigh road and passes about 300 feet to the left of the Poor House, thence it descends to Abbott's creek, crossing it about three fourths of a mile below Randolph bridge; thence it passes up the south slope of the valley of Grimes' branch to the summit of the ridge between Abbott's and Swearing creeks near Parks', at the crossing of the stage road about 4,500 feet west of the Court House, where it joins the 4th division.

The middle line diverges from the Fair Grove line at station 1839, crosses the head waters of Hunt's Fork to the ridge between Rich Fork and Hambie's creek, which it follows three miles; thence it descends into the valley of Jimmie's creek to Conrad's old mill; here the line crosses the creek and again makes two crossings at the bend opposite Mrs. Lopp's and passes over the point of ridge between Jimmie's creek and Rich Fork, crossing the latter near its junction with Hambie's creek, thence it crosses Abbott's creek about half a mile above the junction of Rich Fork, thence it passes down the valley of Abbott's creek, crosses Leonard creek near its mouth and thence along the sloping ground of Leonard's creek to Parks', passing Lexington 1200 feet south of the court house. This line may be

straightened, by a route leaving the line, which is common to it, and the Fair Grove line, at station 1641, passing three-fourths of a mile north of Prospect meeting house, and coming into the middle line again, about 5 miles 1744 feet from the point of starting.

Northern line. This line deflects from the Fair Grove and middle lines, at station 928, at Hiatt's; thence it crosses South Buffalo creek, a little below the Salem road, it then ascends to the summit of the ridge between Haw and Deep rivers; thence it descends Piney branch to its mouth, where it crosses the north prong of Deep river, thence passing over the ridge, between the north and south prong, it crosses the south prong just below Chipman's mill; thence it follows up Tan Yard branch to its head, thence crosses Rich Fork near its source, and immediately ascends to the ridge between Abbott's creek and Rich Fork, along which it runs to Mr. Andrew Sink's, on the stage road, where it commences descending, and crosses Abbott's creek about half a mile below the stage road bridge, and thence along the grounds of Abbott's creek, to its re-union with the middle line, at station 2381. The length, curvature, grades, cost of construction and maintenance being in favor of the middle line, I give it preference, and recommend its adoption.

FOURTH DIVISION.

The location of this division commences at the termination of the third Division above described.

The line passes through the far-famed fertile lands of the Jersey settlement. Swearing creek and North Potts creek, which water these lands, are crossed, the first at Yarbrough's old mill, and the second about a mile below Dr. Holt's mill, on the lands of Dr. Holt, which furnish the best evidence on the line, of the beneficial effects of a judicious combination of science and practical experience in farming. The second branch of Potts' creek is crossed at the Trading Ford road, and by a cut across this road, the line enters the Valley of the Yadkin, which it pursues to station 2720, on the land of T. McDonald. From this point, two lines were located across the Yadkin. The upper line crosses the river a little below Lock's bridge, on a bridge 600 feet long, 46 feet above low water, and 30 feet above high water. The lower line crosses the river near the lower end of Cowan's Island, by a bridge 1000 feet

long, 8 feet above high water, and 24 feet above low water. I am not prepared to give an opinion as to the comparative advantages of these two lines, and express my preference until a farther examination. These two lines re-unite at station 2517, on the ridge near the heads of small branches of the Yadkin, and thence for a distance of $22\frac{1}{2}$ miles, follows the ridge, keeping within the vicinity of the stage road, and passing at station 2315, the town of Salisbury. From station 1328, the line descends to the valley of Irish Buffalo, and crosses the creek near the old mill dam, a quarter of a mile below the public road, and about a mile from the village of Concord. Thence crossing Candle creek and Rocky river, 4.63 and 5.78 miles respectively, from Irish Buffalo, the line passes over into the valley of Back creek, and ascending the ridge between Back and Mallard creeks, the summit of which is gained near Col. Cochran's, it then follows the crest of the ridge from which it descends, crossing some of the head waters of the tributaries of Sugar creek, into the valley of one of the main branches of that creek, along which it is traced to a favorable point for crossing at station 132, thence to Charlotte, passing on the southeastern side of the town, to station 1049, the end of the Charlotte Railroad.

The line above described, is the result of a full reconnoissance of the country, and a comparison of the cost, grades and length, with a trial line between Lexington and the Yadkin, and it was also tested by the merits of a line from the vicinity of Concord to Charlotte, crossing Irish Buffalo at Coleman's quarter, and passing to the West of Back creek, by different crossings of the intermediate streams. The line by Mount Mourne was also compared with it, and was found, from its greater length, to be objectionable.

In the above description of the several divisions, I have omitted numerous lines that were surveyed and examined which will be found in the memoirs of the principal assistants, herewith laid before you, and to which I beg leave to refer.

I have confined myself to those lines, in whose comparison I supposed the stockholders might feel an interest.

The surveys have been made throughout in reference solely to the interests of the company. It has been your pleasure to leave me free and untrammelled, with no other declaration of opinion on your part, than an expression of your solicitude for the selection of the best and most practicable route, and it has been my most earnest desire to con-

form to your wishes; no pains have been spared on my part, and no labor has been wanting on the part of those entrusted with the duty of carrying into effect my instructions. The country has been thoroughly explored; whenever any doubts existed, they have been solved by instrumental surveys, and the competing lines tested and compared by well known and acknowledged principles, verified by experience; nothing has been left to speculation; theory reduced to practice is the formula by which I have been governed in my efforts, in the language of the charter, to obtain the most practicable route for a railroad from the Wilmington and Raleigh Railroad, via Raleigh and Salisbury, to the town of Charlotte.

I believe such a route is now presented to you, and that there is not a Railroad in the country, of the same length, which possesses equal facilities for the economical application of locomotive power. The grades no where exceed fifty feet per mile, and curves of five degrees deflection adopted as the minimum, occur in but few instances. The length of the road is 223 miles.

I have estimated for a single track, with the condition of the waste earth being disposed, and the borrowed earth taken, by widening the cuts, with a view to a double track, the road bed to be formed of gravel or other suitable material to the depth of a foot, and for a superstructure with a T rail of sixty pounds to the yard. The drains and culverts are all to be built of stone or brick, and the wooden bridges to be on the most substantial plan of arch bracing, resting on stone abutments, and every description of work, to be as permanent and durable as any of a similar kind in the country. The warehouses will be of wood.

The whole cost of the road on this plan, including engineering expenses, superstructure and damages and everything appertaining to the road way, will be \$3,165,332.

In this estimate I have endeavored to provide for every possible contingency that may arise; such as increase of labor and provisions, unforeseen difficulties in sinking foundations, and although the amount of rock excavation has been ascertained by repeated borings on nearly the whole line, lest it might have been missed in our examination, I have made a liberal allowance for the contingency, also, so that I feel every confidence in stating the above sum as full and sufficient to cover all expenditures for the items therein embraced; and, everything is included except the locomotives, cars and coaches, and the shops for renewal and repairs.

The cost of the shop and fixtures may be put down at \$100,000 though this whole of the expenditure will not be necessary before the completion of the road: it may be spread over two or three years after the road goes into operation.

The number of Locomotives and their trains depend of course entirely on the amount of business, and may be increased as the wants of the company require. It is not usual to embrace in the original estimates and charge to capital more than barely sufficient to put the road into operation, and with inconsiderable additions, carry it through and enable it to do the business of the first year. With this restriction I submit the following estimate, viz :

For 10 Locomotives at	\$7,500	\$75,000
" 6 Passenger cars,	2,000	12,000
" 4 Baggage and mail cars,	1,800	4 200
" 80 Burthen cars,	600	48,000
		<hr/> \$139,800

Which, added to the two preceding sums, gives \$3,405,132, for the road-way, equipment and workshops.

No difficulty or extraordinary expenditures will be encountered to any portion of the line in procuring substantial foundations for the works of art. The soil on every portion is peculiarly adapted to the formation of a dry and firm road bed; timber for sills are found everywhere convenient to the line; for several of the bridges, it will have to be transported a considerable distance; with this exception and the scarcity of good building rock at some points, suitable materials of every kind are found everywhere convenient to the line.

In relation to the income of the road, I have no data, if it were my province to do so, upon which I would be willing to venture even a conjecture of the specific amount. But, upon a subject of so much importance to the stockholders it may be expected that I should say something, at least in relation to the prospects and just expectations that may be entertained by those who have embarked in it.

This railroad passes through the almost entire length of the State, it embraces in its route a variety of soil and productions not to be found on any railroad in the country. It commences in the rice fields on the Cape Fear and termi-

nates in the cotton fields of the ancient and honored county of Mecklenburg, traversing on its way a highly productive Grain, Tobacco and Cotton growing country. What is deficient on one part of the line to supply the wants of a man is found on another, the raw material on one point will supply the manufacturers at another, who in turn will send out the wrought fabrics to the producer. The wheat and flour of the West will be exchanged for the products of the coast, and thus a reciprocal growing and constantly increasing way trade will spring up, which the history of railroads shew, is the most profitable business; indeed, that it is the only business that pays. Then there is the enterprising and flourishing town of Wilmington, which may be regarded as the eastern terminus of the road, with her large West Indian trade and varied commerce, giving her the ability to supply the wants of the producers, and creating a constant demand for the productions; and the markets of Virginia thrown open by their Raleigh and Gaston Railroad, with their demands and means of supply, all uniting to stimulate industry and production and thus add such an amount of tonnage and business to the road as to render it almost unnecessary to look beyond its limits for the sources of its productiveness. But, if we were permitted to look abroad, we could with as much plausibility of argument as we see urged every day, in connection with other schemes, place this one also in communication with Memphis, which seems to be regarded by many as a point on the great highway to the Pacific, and we could then without any very great stretch of the imagination, extend this road to Beaufort, and fancy her safe and secure harbor crowded with shipping from all parts of the world. Such speculations would probably not be considered rational, though far within the bounds of the visions which fill the mind of the projectors of Railroads possessing nothing like the probabilities of accomplishment, as would seem to attend the very reasonable project of extending the North Carolina Road into Tennessee and down to Beaufort.

And why should not North Carolina accomplish this enterprise? I believe she will; she has already authorised surveys to ascertain the the cost of extending the road over the mountains and granted a charter for a Railroad to Newbern; both schemes are entirely feasible and practicable, and will at no distant day, I have no doubt, be accomplished. They are probable in theory, and what is probable in theory

has in practice always proved true. But these schemes are in the future, although, in my opinion in the certain future. I prefer reasoning from the past and grasping what is before me. Looking, then, as I have said, to the wide spread demand and to the ability and capacity of the country on the immediate borders of the road to supply that demand, I have no fears of the result and feel in no need of traveling beyond the borders of the State in search of trade and travel to demonstrate the productiveness of the stock of the North Carolina Railroad. I am, however, not indifferent to the income arising from the through business; it is one of the certainties of the present which I count largely upon from our connection with the Charlotte and South Carolina Railroad. Having, however, in the outset confined myself to the limits of the road, and to a simple statement of its influences in promoting home industry, and thereby adding to the wealth of the State, and creating business for itself—I have, although entertaining just expectations, not felt myself at liberty to draw heavily from other sources—I prefer leaving that branch of the estimate to others quite as competent to the computation as myself, to make such additions as may suit their views.

The effect of railroads everywhere, is to increase the value of lands. The ratio of increase is dependent upon the fertility of the soil, and the remoteness of the lands from market, and the amount of increase is exactly the capitalized sum which the saving in the transportation upon the annual produce of an acre would give. For instance, if the annual saving in the transportation of the produce of an acre of land is one dollar, the value of the land will be increased \$16.2-3, the capital, which, at 6 per cent., would yield a dollar. My own impression is, that that the lands on the line of the North Carolina Railroad will be increased in a greater ratio than this, now universally acknowledged principle of computation would give, for the reason that they are from some cause greatly underrated, especially from Lexington to Charlotte; the lands on this portion of the road, which grow cotton as well as grain, compared with lands in Virginia, similarly situated, in reference to markets, and which grow only grain and grass, are valued at very little more than half the price the lands in Virginia. The effect of the Railroad will be to raise these lands to their proper standard of value, and add also thereto the enhanced value arising from the diminution in the cost of transportation.

The manufacturing establishments on the line of the work, which are now in a comparatively feeble and declining condition, will receive an impulse that will reward their enterprising proprietors, and revive the drooping hopes of the advocates of home industry. For it must be obvious to every one how much they are affected by the cost of transportation.

The expense of transporting the raw material, and manufactured goods, constitutes an element in the cost of those goods in market. The means of transportation are in fact but a part of the machinery in the manufacture of goods for market, and the same principle applies, as well in the improvement of the one as in the other. The man with good machinery can manufacture profitably, and sell at a price at which the one with poor machinery would be ruined. If, then, we apply this principle to the transportation of the raw material, breadstuffs and other articles of consumption, in manufacturing establishments, it needs no argument or calculation to show that he who can make use of a railroad for this purpose, can always undersell those who are without the accommodation. This is the true secret of the success of the Northern manufactories; the liberal system of internal improvement at the North, has cheapened the transportation of their supplies. I doubt not, it would prove, upon investigation, that the transportation of a bag of cotton, from the interior of Georgia, in the vicinity of her railroad, to Lowell, costs less than the transportation to many of the manufactories in North Carolina, within a hundred miles of the cotton fields.

The reduction in the price of transportation must be attended at least with the working of the existing establishments up to their full capacity, and with their success, the erection of others will follow, until in course of time the State will become a manufacturing, and by consequence a consuming as well as producing State.

The home market, built up by the Manufacturing establishments, will stimulate, encourage and foster the agricultural interest which is the great interest of the State; and thus the great ends of government will be accomplished by the silent workings of the system of internal improvements without doing violence to the theories or prejudices of any one. The greatest benefit will be conferred on the greatest number. In fact all will be benefitted. For the North Carolina Rail Road is not a mere line of Railroad accommodating a single line of travel and operating on a narrow section of the State; there is scarcely any portion or any

interest in the State that is not benefitted by this work. It traverses nearly the whole length of the State, it is the Central Rail Road projected by the old and ardent friends of internal improvement, crossing the channels of some of the principal water courses, bringing their water falls and Manufactories into the actual vicinity of the Seaboard. It would be difficult to plan a work, so properly, so obviously, and so essentially a State work. The people themselves have made it so by their wide spread and unprecedented individual subscription of a million of dollars, and by their endorsement of the copartnership of the State from one end of it to the other, in her subscription of two millions more. That they will not be disappointed in their expectations, I am quite sure, unless it should turn out, and there is no reason why it should be so, that the same cause in North Carolina will not produce the same effects as in other States, North, South, East and West. In those States it is found that railroads relieve the burden of taxation. First, by the difference in the cost of transportation by common roads and by rail roads, which may be stated at about two to one. Secondly, by increasing the taxable property on the line of the road, a general reduction of taxes is made, thus lessening the taxes on lands more remote, gives them an additional value, and thus the benefits of the road are extended far and wide, and are felt by the whole agricultural community. And furthermore, the general benefits which result to trade and commerce from railroads in other States extend to every portion of their territory; every branch of industry is affected by the trade and commerce opened by these channels of communication. No one can doubt that the same results will be experienced in North Carolina. In short, the effect of a judicious system of internal improvement is to unite a State as it were in one great community with all their wants, demands and supplies brought to view, stimulating enterprize and industry in all the arts and various pursuits of man.

And last, though not on this account the least, of the important benefits of the North Carolina Railroad, is the effect it will have to withdraw the inducement to emigration which every year deprives the State of a portion of her most vigorous, enterprising and intelligent population.

I am, gentlemen,

Very respectfully,

Your obedient servant,

WALTER GWYNN,

Civil Engineer.

ERRATUM.

On page 282, 10 lines from the bottom, for "*the question of all questions*," read "*the invention of all inventions*."

[170]

[House Document No. 44]

AMENDMENTS

BILL

TO REFORM

THE NATIONAL

RAILROAD

AND
TO

AMENDMENTS TO THE
BILL
TO INCORPORATE
THE
NORTH CAROLINA AND TENNESSEE
RAIL ROAD COMPANY.

RALEIGH:
SEATON GALES, PRINTER TO THE LEGISLATURE

1852

[Introduced by Mr. AVERY. Read first time and ordered
to be printed]

AMENDMENTS.

I. Strike out the words "one million of," in the fifth, sixth and eighth sections, and insert in lieu thereof "two hundred and fifty thousand."

II. Strike out the thirty-fifth section, and insert in lieu thereof the following, to-wit: "That whenever it shall appear to the Board of Internal Improvement of this State, by a certificate under the seal of said company, signed by their President, that said company have graded the first ten miles of road, from the point of the beginning on the North Carolina Railroad, and have prepared the same for the reception of the superstructure, the said Board of Internal Improvement shall be, and they are hereby authorised and required to subscribe on behalf of the State for stock in said company, to the amount of eight thousand dollars for each mile of said road, that may be thus certified as having been graded

14 and prepared for the superstructure as aforesaid ; and
 15 for each succeeding mile of said road that may be
 16 thereafter graded and prepared for receiving the super-
 17 structure as aforesaid, the Board of Internal Improve-
 18 ment shall be, and are hereby authorised and required
 19 to subscribe on behalf of the State, the sum of eight
 20 thousand dollars, so that the stock of the State in said
 21 company, when said road shall be completed, shall
 22 amount to the sum of eight thousand dollars for each
 23 and every mile throughout the entire distance thereof,
 24 from the point of beginning to the extreme western ter-
 25 minus: *Provided*, that no application shall be made by
 26 said company for a further subscription on the part of
 27 the State after the first subscription is made, until at
 28 least ten additional miles shall have been graded and
 29 prepared for the superstructure as aforesaid ; and each
 30 subscription on behalf of the State, as by this act au-
 31 thorised, shall only be made when it appears from the
 32 certificates of said company, that at least ten miles of
 33 said road have been graded, and prepared for the recep-
 34 tion of the superstructure.

Sec. . That the Board of Internal Improvement shall
 2 be, and they are hereby authorised and empowered to
 3 direct the payment of the subscription which they may
 4 at any time make to said road, on behalf of the State,
 5 either in cash, or in any stock which the State may
 6 then have in the North Carolina Railroad company, as
 7 said Board may deem most advisable. And said Board
 8 shall specify, upon the books of said company, at the
 9 time of making each subscription, whether the amount
 10 subscribed on behalf of the State, shall be paid in cash
 11 or in stock of the North Carolina Railroad company :
 12 and if said Board should direct, at any time, a payment
 13 of the State's subscription in the stock aforesaid, then
 14 they shall certify that fact to the Governor of the State,
 15 and the transfer and assignment of said stock shall be

16 made by the Governor, under the seal of the State, to
 17 the president and directors of said North Carolina and
 18 Tennessee Railroad company and their assignees; and
 19 said stock shall be taken at par value, in payment of
 20 the State's subscription. That, if said board shall desig-
 21 nate, upon the books of said company, and direct that
 22 the amount of stock which they may at any time sub-
 23 scribe, on behalf of the State, shall be paid to said com-
 24 pany in cash, then said sum or sums shall be raised and
 25 paid as hereinafter provided.

3d. Strike out the words, "a sum not exceeding two
 2 millions of dollars," in the 8th line of 36th section, and
 3 insert, "such sums as said board may subscribe on be-
 4 half of the State."

4th. Strike out the words, "of the aforesaid sum of two
 2 millions," in the 39th section.

The following additional sections to be inserted, to wit :

Sec. . That, if the sum of three millions should be
 2 insufficient to complete said road, and equip the same,
 3 that the company is hereby authorised to increase their
 4 capital stock, by receiving subscriptions of stock from
 5 individuals, corporations or counties, to such an amount
 6 as may be sufficient to complete said work of improve-
 7 ment, and furnish the necessary engines, cars, station
 6 houses, etc.

Sec. . That, in order to raise the sum herein author-
 2 ised to be subscribed by individuals, it shall also be
 3 lawful for any corporation or county within this State,
 4 to subscribe for stock in said company: *Provided,*
 5 The said corporation or county be authorised to sub-
 6 scribe in manner as hereinafter directed and provided.

Sec. . That in order to enable the corporate authorities
 2 of any town to subscribe for stock in said Company, it
 3 shall be the duty of said corporate authorities of such
 4 town to make an order stating the sum proposed to be
 5 subscribed, and then submit the question of subscription
 6 or no subscription to the qualified voters in said town
 7 on such terms and in such form as the authorities may pre-
 8 scribe, and if a majority of the inhabitants of said town
 9 qualified to vote for town officers, shall vote in favour of
 10 such subscription, then the corporate authorities shall
 11 appoint a suitable agent to make the same, and to repre-
 12 sent said corporation in all such meetings as may be
 13 held of the stockholders of said Railroad Company.

Sec. . That, in order to enable said corporate au-
 2 thorities to raise the funds necessary to pay their sub-
 3 scription, it shall be lawful for said authorities, by their
 4 duly appointed officer, to cause their bonds to be issued,
 5 payable to the president of said company, on a credit of
 6 not exceeding twenty years, with interest payable semi-
 7 annually, at the rate of six per centum; which bonds
 8 shall be endorsed by the Treasurer of the State, upon
 9 the express condition that the authorities of such town
 10 or corporation shall annually levy and collect such an
 11 amount of taxes as may be sufficient to pay the interest
 12 on said bonds, and gradually to pay off and discharge
 13 the principal; and on their failure so to provide, it shall
 14 be lawful for the General Assembly to levy and collect
 15 such amount of taxes on the property and persons of
 16 such inhabitants, in said town or corporation, as shall
 17 be sufficient to pay off both principal and interest on
 18 such bonds.

Sec. . That it shall be lawful for the Justices of the
 2 Court of Pleas and Quarter Sessions, at the first Court
 3 which they may hold, after the first day of next,

4 for the counties contiguous to said railroad, a majority
 5 of the Justices being on the bench, to decide on the
 6 amount to be subscribed to said railroad company, in
 7 behalf of their county, and to make the necessary orders
 8 for submitting the question of subscription or no sub-
 9 scription to the voters of their respective counties, who
 10 may be entitled to vote for members of the House of
 11 Commons for the General Assembly, and if a majority
 12 shall decide in favor of subscription, it shall be the duty
 13 of the sheriff, under whose authority the polls are to be
 14 held, to make return thereof within five days after any
 15 such vote, under the same penalties as are now prescri-
 16 bed by law in regard to members of the General As-
 17 sembly, to the chairman of their County Courts, whose
 18 duty it shall be to call together the Justices of the Peace
 19 of said county, a majority of whom shall be authorized
 20 and required to appoint an agent to subscribe for the
 21 number of shares in the stock of said company; which
 22 he shall be authorized to do by the order of said court,
 23 and thereafter to represent the stock of such county in
 24 all general meetings of the stockholders; which agent
 25 it shall be competent for the Justices to change, as to
 26 them shall seem proper.

Sec. . That, to enable the Justices of said County
 2 Courts to raise the sum necessary to pay said subscrip-
 3 tion, it shall be lawful for said Justices to pass the ne-
 4 cessary order, which shall be placed on record, for issu-
 5 ing bonds for the amount subscribed, on a credit of not
 6 exceeding twenty years, bearing interest at six per cent.
 7 payable semi-annually, to the president of said railroad
 8 company, which bonds the Treasurer of the State is
 9 hereby directed to endorse, pledging the State to their
 10 payment, upon the express condition, that the Justices
 11 of said county shall annually levy and collect a tax on
 12 the property and persons of the inhabitants of said

13 county sufficient to pay the interest on said bonds, as
14 well as whatever sum shall be deemed necessary for the
15 gradual payment of the principal; and on their failure
16 so to provide, it shall be lawful for the General Assem-
17 to levy and collect such an amount of taxes on the
18 persons and property of the inhabitants of such county
19 as shall be sufficient to pay off both principal and in-
20 terest on such bonds.

A BILL

To Lay off the State into Fifty Senatorial Districts.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That, for the purpose of electing members to the Senate, of the General Assembly of the State of North Carolina, this State shall be divided into fifty districts, as follows: That is to say, the first district shall consist of the counties of Currituck and Camden; the second, of Pasquotank and Perquimons; the third, of the counties of Gates and Chowan; the fourth, of the county of Hertford; the fifth, of the county of Northampton; the sixth, of the county of Halifax; the seventh, of the county of Bertie; the eighth, of the counties of Martin and Washington; the ninth, of the counties of Tyrrell and Hyde; the tenth, of the county of Beaufort; the eleventh, of the county of Craven; the twelfth, of the counties of Lenoir and Green; the thirteenth, of the county of Pitt; the fourteenth, of the county of Edgecombe; the fifteenth, of the county of Wayne; the sixteenth, of the county of Johnston; the seventeenth, of the county of Nash; the eighteenth, of the county of Wake; the nineteenth, of the county of Franklin; the twentieth, of the county of Warren; the twenty-first, of the county of Granville; the twenty-second, of the county of

25 Person; the twenty-third, of the county of Orange; the
 26 twenty-fourth, of the counties of Alamance and Ran-
 27 dolph; the twenty-fifth, of the counties of Moore and
 28 Montgomery; the twenty-sixth, the county of Chat-
 29 ham; the twenty-seventh, of the county of Cumber-
 30 land; the twenty-eighth, of the county of Richmond;
 31 the twenty-ninth, of the counties of Robeson and Bla-
 32 den; the thirtieth, of the counties of Brunswick and
 33 Columbus; the thirty-first, of the county of New Han-
 34 over; the thirty-second, of the county of Sampson;
 35 thirty-third, of the county of Duplin; the thirty-fourth,
 36 of the counties of Carteret, Jones and Onslow; the
 37 thirty-fifth, of the county of Anson; the thirty-sixth, of
 38 the counties of Union and Stanly; the thirty-seventh,
 39 of the counties of Cabarrus and Rowan; the thirty-
 40 eighth, of the counties of Davie and Davidson; the
 41 thirty-ninth, of the county of Guilford; the fortieth, of
 42 the county of Caswell; the forty-first, of the county of
 43 Rockingham; the forty-second, of the counties of
 44 Stokes and Forsythe; the forty-third, of the counties
 45 of Surry, Ashe and Wilkes; the forty-fourth, of the
 46 counties of Watauga, Caldwell, Alexander and Burke;
 47 the forty-fifth, of the counties of Catawba and Iredell;
 48 the forty-sixth, of the county of Mecklenburg; the
 49 forty-seventh, of the counties of Lincoln and Gaston;
 50 the forty-eighth, of the counties of Cleveland and
 51 Rutherford; the forty-ninth, of the counties of McDo-
 52 well, Yancey, Madison and Buncombe; the fiftieth, of
 53 the counties of Henderson, Haywood, Macon and
 54 Cherokee; each of which districts, shall be entitled to
 55 one Senator, to be elected under the same rules and
 56 regulations as are now provided by law.

II. *Be it further enacted*, That, where any Senatorial
 2 district, as laid off by this act, is composed of more than
 3 one county, the sheriff or other returning officer of
 4 each, of the counties composing such Senatorial district,

5 shall, after receiving the returns from the inspectors, as
 6 now prescribed by law, meet on the second Thursday
 7 in August, after each election, at the following places,
 8 in their respective districts, for the purpose of compar-
 9 ing the polls in said district, namely : in the first district,
 10 composed of the counties of Currituck and Camden ; in
 11 the second, composed of the counties of Perquimons and
 12 Pasquotank ; in the third district, composed of the
 13 counties of Gates and Chowan ; the twelfth district,
 14 composed of the counties of Lenoir and Green, at the
 15 several places now prescribed by law ; in the eighth
 16 district, composed of the counties of Martin and Wash-
 17 ington, at _____, in the county
 18 of _____ ; in the ninth district, composed of
 19 the counties of Tyrrell and Hyde, at _____,
 20 in the county of _____ ; in twenty-fourth district,
 21 composed of the counties of Alamance and Randolph,
 22 at _____, in the county of _____ ;
 23 in the twenty-fifth district, composed of the counties of
 24 Moore and Montgomery, at _____, in the
 25 county of _____ ; in the twenty-ninth dis-
 26 trict, composed of the counties of Bladen and Robeson,
 27 at _____, in the county of _____ ;
 28 in the thirtieth district, composed of the counties of Co-
 29 lumbus and Brunswick, at _____, in the
 30 county of _____ ; in the thirty-third district,
 31 composed of the counties of Carteret, Jones and On-
 32 low, at _____, in the county of _____ ;
 33 in the 30th district, composed of the counties of Union
 34 and Stanly, at _____, in the county of _____
 35 ; in the thirty-seventh district, composed of the
 36 counties of Cabarrus and Rowan, at _____, in
 37 the county of _____ ; in the thirty-eighth dis-
 38 trict, composed of the counties of Davie and Davidson,
 39 at _____, in the county of _____, in the
 40 forty-second district, composed of the counties of Stokes,
 41 and Forsythe, at _____, in the county of _____
 42 ; in the forty-third district, composed of the
 43 counties of Surry, Yadkin, Wilkes and Ashe, at _____
 44 _____, in the county of _____ ; in the forty-

45 fourth, composed of the counties of Watauga, Caldwell,
 46 Alexander and Burke, at , in the
 47 county of ; in the forty-fifth district, com-
 48 posed of the counties of Catawba and Iredell, at
 49 , in the county of ; in the forty-
 50 seventh district, composed of the counties of Lincoln
 51 and Gaston, at , in the county of
 52 ; in the forty-eighth district composed of the
 53 counties of Rutherford and Catawba, at
 54 in the county of ; in the forty ninth dis-
 55 trict composed of the counties of McDowell, Yancy,
 56 Madison and Buncombe, at in the
 57 county of ; in the fiftieth district
 58 composed of the counties of Henderson, Haywood,
 59 Macon and Cherokee, at in the county
 60 of .

III. *Be it further enacted,* That this act shall take ef-
 2 fect, and be in force from and after its ratification, and
 3 that nothing in this act contained shall be so construed
 4 as to affect the manner of holding an election for mem-
 5 bers of the Senate, before the next regular election to
 6 be holden on the first Thursday in August, in the year
 7 1854.

[Introduced by Mr. REID.—Passed first reading, ordered to be printed, and made the order of the day for Thursday next, at 12 o'clock.]

A BILL

TO

LAY OFF THE STATE

INTO FIFTY:

SENATORIAL DISTRICTS.



A BILL

To lay off this State into fifty Senatorial Districts.

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by the author-*
3 *ity of the same, That, for the purpose of electing Mem-*
4 *bers to the Senate of the General Assembly of the State*
5 *of North Carolina, this State shall be divided into fifty*
6 *Districts as follows: That is to say, the first district*
7 *shall consist of the counties of Pasquotank and Per-*
8 *quimons; the second district of Camden and Currituck;*
9 *the third district of Gates and Chowan; the fourth dis-*
10 *trict of Washington, Tyrrell and Hyde; the fifth dis-*
11 *trict of Northampton; the sixth district of Hertford;*
12 *the seventh district of Bertie; the eighth district of*

13 Martin; the ninth district of Halifax; the tenth dis-
 14 trict of Edgecombe; the eleventh district of Pitt; the
 15 twelfth district of Beaufort; the thirteenth district of
 16 Craven; the fourteenth district of Onslow, Carteret and
 17 Jones; the fifteenth district of Green and Lenoir; the
 18 sixteenth district of New Hanover; the seventeenth
 19 district of Duplin; the eighteenth district of Bladen and
 20 Robeson; the nineteenth district of Brunswick and Co-
 21 lumbus; the twentieth district of Cumberland; the
 22 twenty-first district of Sampson; the twenty-second
 23 district of Wayne; the twenty-third district of John-
 24 ston; the twenty-fourth district of Wake; the twenty-
 25 fifth district of Nash; the twenty-sixth district of
 26 Franklin; the twenty-seventh district of Warren; the
 27 twenty-eighth district of Granville; the twenty-ninth
 28 district of Person; the thirtieth district of Orange; the
 29 thirty first district of Alamance; the thirty-second
 30 district of Chatham; the thirty-third district of Ran-
 31 dolph and Montgomery; the thirty-fourth district of
 32 Richmond and Moore; the thirty-fifth district of Anson
 33 and Union; the thirty-sixth district of Guilford; the
 34 thirty-seventh district of Caswell; the thirty-eighth dis-
 35 trict of Rockingham; the thirty-ninth district of Meck-
 36 lenburg; the fortieth district of Stanly and Cabarrus;
 37 the forty first district of Rowan and Davie; the forty-
 38 second district of Davidson; the forty-third district of
 39 Stokes and Forsythe; the forty-fourth district of Ashe,
 40 Surry and Yadkin; the forty-fifth district of Wilkes,
 41 Iredell and Alexander; the forty-sixth district of Burke,
 42 McDowell, Caldwell and Watauga; the forty-seventh
 43 district of Lincoln, Gaston and Catawba; the forty-
 44 eighth district of Rutherford and Cleaveland; the
 45 forty-ninth district of Buncombe, Henderson, Yancy
 46 and Madison; and the fiftieth district of Haywood, Ma-
 47 con, Cherokee and Jackson.

II. *Be it further enacted*, That when any senatorial dis-
 2 trict as laid off by this act, is composed of more than
 3 one county, the sheriff or other returning officer of
 4 each of the counties composing such senatorial district,
 5 shall, after receiving the returns from the inspectors as
 6 now prescribed by law, meet on the second Thursday
 7 in August, after each election, at the following places in
 8 their respective districts, for the purpose of comparing
 9 the polls in said district, to-wit: In the first district
 10 composed of the counties of Pasquotank and Perquim-
 11 ons; in the second district composed of the counties of
 12 Camden and Currituck; in the third district composed
 13 of the counties of Gates and Chowan; in the fifteenth
 14 district composed of the counties of Green and Lenoir;
 15 in the forty-first district composed of the counties of
 16 Rowan and Davie; in the forty-fourth district compo-
 17 sed of the counties of Ashe, Surry and Yadkin; in the
 18 forty-ninth district composed of the counties of Bun-
 19 combe, Henderson, Yancey and Madison; in the fiftieth
 20 district composed of the counties of Haywood, Macon
 21 Cherokee and Jackson, at the several places now provi-
 22 ded by law; in the fourth district composed of the
 23 counties of Washington, Tyrrell and Hyde, at
 24 in the county of Tyrrell; in the fourteenth
 25 district composed of the counties of Onslow, Carteret
 26 and Jones, at Jacksonville in the county of Onslow; in
 27 the eighteenth district composed of the counties of Bla-
 28 den and Robeson, at Elizabethtown, in the county of
 29 Bladen; in the nineteenth district composed of the
 30 counties of Brunswick and Columbus, at Flemington,
 31 in the county of Columbus; in the thirty-third district
 32 composed of the counties of Randolph and Montgome-
 33 ry, at , in the county of ;
 34 in the thirty-fourth district, composed of the counties of
 35 Richmond and Moore, at the Mineral Springs
 36 in the county of Moore; in the thirty-fifth

37 district, composed of the counties of Anson and Union,
 38 at _____ in the county of
 39 _____ ; in the fortieth district, composed of
 40 the counties of Cabarrus and Stanly, at Mount Pleasant
 41 in the county of Cabarrus ; in the forty-third district,
 42 composed of the counties of Stokes and Forsythe, at
 43 Germanton, _____ in the county of Stokes ;
 44 in the forty-seventh district, composed of the counties
 45 of Lincoln, Gaston and Catawba, at Lincolnton in the
 46 county of Lincoln ; in the forty-eighth district, compo-
 47 sed of the counties of Rutherford and Cleaveland, at
 48 _____ in the county of
 49 and in the several districts composed of one county, at
 50 the Court Houses of their respective counties.

III. *Be it further enacted*, That this act shall take effect,
 2 and be in full force from and after its ratification, provi-
 3 ded that nothing in this act contained, shall be so con-
 4 strued as to affect the manner of holding an election for
 5 a member of the Senate, before the next regular election
 6 to be holden on the first Thursday in August, 1854.

[Introduced by Mr. Turner.—Passed first reading ; referred to a select committee of five, and ordered to be printed.]

A BILL

To qualify every man of good mind and good character, to serve as a Juror, without reference to a freehold qualification.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the Courts of Pleas and Quarter sessions, at the first term which shall be holden after the first day of January next, and once at least in every two years thereafter, shall cause their clerk to lay before them the tax returns of the preceding year, for their county, from which they shall select the names of such persons only as are of good mind and good character, and well qualified to act as jurors, a list of which names shall be drawn out by their clerk, and constitute the jury list ; and, if said tax returns shall not contain

13 the names of all the inhabitants of their said county,
14 who, in their opinion, are well qualified to act as jurors,
15 they shall cause the names of all such persons to be in-
16 serted, on their said jury list: *Provided*, All such per-
17 sons so selected, shall, by law, be qualified to act as
18 jurors; which jury list, so made up, shall continue in
19 in its operation for two years, at the end of which time
20 it shall be the duty of the said Court, and they are here-
21 by required, to examine carefully the jury list already
22 made out, and diligently inquire if any person qualified
23 to be jurors, as above mentioned, have been inserted,
24 and if they find that any have been omitted, they shall
25 add them to the jury list, to be drawn, as above direc-
26 ted; and if they find that any have been inserted, not
27 possessing the requisite qualification, they shall direct
28 the name of such person to be stricken out from the
29 jury list; and to obtain full information on this subject,
30 the said Courts may examine, on oath or affirmation,
31 any person they may think proper.

[Introduced by Mr. SIMONS.—Read first time and passed and ordered to be printed and referred to Judiciary Committee.]

A BILL

For better securing creditors against loss.

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by the author-*
3 *ity of the same, That, if any person be indebted to*
4 *any citizen of this State, and before the day when the*
5 *collection of the debt can be enforced, the debtor is*
6 *about to remove his person and property beyond the*
7 *jurisdiction of our courts, then it shall be lawful for the*
8 *creditor to appear before any Justice of the Peace, for*
9 *any county in which property belonging to the debtor*
10 *may be found, and make affidavit in writing, stating*
11 *the amount of the debt, how it is due, and when the*
12 *credit expires; and further, that he verily believes the*
13 *debtor is about to remove his person and property be-*

14 yond the jurisdiction of the courts of this State; then
 15 the creditor may tender to such justice a bond in double
 16 the amount of the debt, payable to the debtor with suf-
 17 ficient security, conditioned to be void if the creditor
 18 prosecutes his suit with effect, then about to be institu-
 19 ted; and it shall be the duty of said justice to accept
 20 said bond and hold the same for the use of the debtor,
 21 and immediately to issue his warrant directed to the
 22 sheriff or any lawful officer of his county, in favor of
 23 the creditor and against the debtor for the amount of
 24 the debt, and therein command the officer to notify the
 25 debtor of the existence of such precept, and seize and
 26 take into his possession and custody, so much of his
 27 property as will satisfy the debt and cost of suit.

II. *Be it further enacted*, That the defendant in such
 2 case may regain the possession of the property taken
 3 by the officer as aforesaid, by entering into bond and
 4 security in double the amount of the debt, payable to
 5 the sheriff or constable, to the use of the plaintiff, con-
 6 ditioned to be void if he will produce such property at
 7 such time and place as may be agreed upon by the
 8 parties, and deliver the same to the officer, to be sub-
 9 ject to such judgment and execution as may be entered
 10 in the case in favor of the plaintiff.

III. *Be it further enacted*, That it shall be the duty of
 2 the officer to notify the defendant, if to be found, to ap-
 3 pear before any Justice of the Peace of his county, on
 4 a day after the plaintiff's debt falls due, at which time
 5 and place a trial shall be had upon the merits of the
 6 case, in any case coming within the jurisdiction of a
 7 single justice, and a judgment entered accordingly, and
 8 if the defendant fails to appear and answer, judgment
 9 by default shall be entered against him, and the proper-
 10 ty seized in such case shall be subject to the satisfac-
 11 tion of such debt from the time of such seizure.

IV. *Be it further enacted*, That when the debt, for which
 2 a warrant has been issued as aforesaid, exceeds the
 3 amount over which a single justice of the peace has at
 4 present jurisdiction, it shall be the duty of the officer
 5 after notifying the defendant, if to be found, and seizing
 6 his property as aforesaid, to return the warrant and other
 7 papers in the cause to any court of record having juris-
 8 diction of jury causes, and the clerk of the court shall
 9 receive the same and enter the cause on his docket,
 10 which warrant shall be the original process in the case,
 11 and after the debt falls due it shall stand for trial, sub-
 12 ject to the same rules as other causes, and on failure of
 13 the defendant to appear and plead, judgment by default
 14 may be entered.

V. *Be it further enacted*, That, if a cause be pending
 2 in any of the Courts of this State, undetermined, and
 3 the plaintiff therein shall go before the clerk of the
 4 Court, and make affidavit, as prescribed in the first sec-
 5 tion of this act, it shall be the duty of the clerk to issue
 6 a precept directed to the sheriff, returnable to the next
 7 term of the Court, commanding him to seize and take
 8 into his possession, so much of the defendant's property
 9 as will satisfy the debt described in the affidavit and
 10 writ, with cost of suit, and hold the same, subject to
 11 the satisfaction of such judgment as may be obtained in
 12 favor of the plaintiff: *Provided, nevertheless*, That the
 13 defendant may at any time regain the possession of the
 14 property seized, as aforesaid, by entering into bond, as
 15 prescribed in the first section, conditioned to be void,
 16 if the property seized shall be delivered at the termina-
 17 tion of suit, or the judgment obtained be otherwise
 18 satisfied.

VI. *Be it further enacted*, That either of the parties to
 2 any cause tried by a single justice, may appeal from

4 terms as the justices of the counties so uniting may
 5 agree; and for the purpose of making such contract,
 6 the justices are authorised to appoint commissioners
 7 (not exceeding five in number,) to represent the county
 8 in making the contract, and the agreement so made,
 9 shall be valid and binding on the counties so contract-
 10 ing.

III. *Be it further enacted*, That the justices of the peace
 2 for the several counties, a majority being present in
 3 court, shall prescribe and establish rules and regulations
 4 for the government and management of their respec-
 5 tive county jails and houses of correction, and shall ap-
 6 point inspectors or visitors, not to exceed five in num-
 7 ber, and assign them their powers and duties, in visiting,
 8 overlooking and directing the execution of the rules,
 9 established for the management of said jails and houses
 10 of correction, and the prisoners.

IV. *Be it further enacted*, That the County Courts of
 2 the several counties in this State, at their first courts
 3 that shall happen, after the ratification of this *bill*, and
 4 annually thereafter, may appoint a keeper of the jails
 5 and houses of correction, who shall take an oath of
 6 officer and give bond, payable to the State of North
 7 Carolina, in the sum of four thousand dollars, with am-
 8 ple sureties, conditioned for the faithful and diligent
 9 discharge of his several duties required by law, or by
 10 the order of said court, or the inspectors or visitors of
 11 said prison, and the court shall, from time to time, have
 12 power to fix the fees and compensation of the jailer or
 13 keeper of the prison and workhouse, and prescribe his
 14 duties, and appoint or allow him to appoint the neces-
 15 sary assistants.

V. *Be it further enacted*, That, if for any cause the
 2 County Court of any county shall fail to perform the

3 duties enjoined in the fourth section of this bill, they
4 may do it at a subsequent term.

VI *Be it further enacted*, That the said courts may
2 procure, or direct the jailor or inspector to procure, such
3 tools as may be found necessary for the labor of the
4 prisoners; and the court may direct what labor each
5 prisoner shall perform, or may leave that to the keeper
6 or to the inspectors, as to the court shall seem proper.

VII. *Be it further enacted*, That the sheriffs of the
2 several counties adopting this system, shall not be res-
3 ponsible for the prisoners or have any control over
4 them, except by order of the court after their commit-
5 tal: *Provided*, that this exemption shall not operate in
6 any county until the jailor shall be appointed by virtue
7 of this bill.

VIII. *Be it further enacted*, That it shall not be lawful
2 for any Judge of the Superior Court, or the justices of
3 any County Court, to order the inflicting of any whip-
4 ping, branding, impillory or other corporeal punish-
5 ment, for any crime hereafter committed, but, on con-
6 viction of any offence now requiring such corporeal
7 punishment, the Court may order and adjudge that the
8 person or person or persons so convicted shall be im-
9 prisoned to hard labor for a term not exceeding five
10 years. And on the certificate of the clerk of such
11 court, accompanying the record of such conviction and
12 sentence, it shall be the duty of the jailor and keeper
13 of the house of correction, to receive and confine the
14 prisoner or prisoners, and require of him or them to
15 perform the labor according to the judgment of the
16 Court.

IX. *Be it further enacted*, That on conviction of an as-
2 sault with intent to murder, on conviction of maiming

3 or malicious stabbing, the defendant shall be sentenced
4 to imprisonment at hard labor, not exceeding three
5 years; and every person convicted of trading with
6 slaves, shall be sentenced to be imprisoned to labor not
7 longer than one year.

X. *Be it further enacted*, That all vagrants convicted
2 under the existing laws may be committed to the house
3 of correction for a term not exceeding three months.

XI. *Be it further enacted*, That the jailor or keeper
2 shall (if he find it safe to do so) allow any prisoner,
3 before conviction, to labor at any suitable and appropri-
4 ate work that may be on hand; and if such prisoner
5 shall not be convicted, then any net profit on his labor,
6 after paying for his lodging and boarding (if any,) shall
7 be paid to said prisoner on his release from prison.

XII. *Be it further enacted*, That all slaves and free ne-
2 groes lodged in such jails shall be required to labor un-
3 der the direction of the keeper of the prison and work-
4 house, so long as they continue in prison.

XIII. *Be it further enacted*, That if it shall be made to
2 appear before any Judge of the Superior Court trying
3 any case, that there is no safe and sufficient jail or
4 house of correction, in such county in which a prisoner
5 may be convicted, before such judge, of any infamous of-
6 fence, (not punishable with death by the existing laws) it
7 shall be the duty of such judge, to send such prisoner
8 to any other convenient jail or workhouse, or house of
9 correction in another county, where there may be suffi-
10 cient room and accommodation, there to be kept at labor,
11 as is hereinbefore provided for convicts in the respec-
12 tive counties.

XIV. *Be it further enacted*, That all prisoners shall be
2 treated with humanity, and furnished with wholesome

3 food. But, if any prisoner bound to do any work, shall
 4 refuse to do the same, and obey the lawful orders of the
 5 keeper, or become refractory, the keeper, with the ap-
 6 probation of a majority of the inspectors, may put such
 7 prisoner in close and solitary confinement, and feed
 8 him with bread and water only, until he yield and agree
 9 to perform his duty as required.

XV. *Be it further enacted*, That if any prisoner shall
 2 break or escape from prison, he shall be liable to indict-
 3 ment therefor, and, on conviction thereof, shall be liable
 4 to farther imprisonment, at the discretion of the court,
 5 not exceeding the original term for which he was first
 6 sentenced.

XVI. *Be it further enacted*, That if any prisoner shall
 2 commit any violence on the keeper or his assistant, it
 3 shall be competent for a majority of the inspectors of
 4 such prison to direct his confinement and treatment by
 5 way of restricting his food to bread and water, until he
 6 is subdued ; and such offender shall be further subject
 7 to indictment in the Superior Court of Law for the
 8 county in which the offence is committed, and, on con-
 9 viction, shall be imprisoned to hard labor, for a term to
 10 be adjudged of by the Court, not exceeding twice the
 11 term of his first imprisonment.

XVII. *Be it further enacted*, That it shall be competent
 2 for the keeper of the prison or the inspectors, to con-
 3 tract for any materials to be worked up, and to take in
 4 and perform any work for any person or corporation, as
 5 the County Court of his county shall and may direct,
 6 to pay the expenses, collect and receive all moneys aris-
 7 ing from the labor of the prisoners, and from the sales
 8 of the manufactured articles ; and shall keep a full and
 9 correct account of all the transactions on account of
 10 said prisoner, and keep a book, showing faithfully all

11 receipts and disbursements on account of such person,
 12 and such books shall be always open to the inspection
 13 of the inspectors, and to the County Court or any com-
 14 mittee that the court may appoint; and said jailor shall
 15 make a report to each term of said court, of the man-
 16 agement of the prison, and make settlement of his ac-
 17 counts as often as the court shall require it, not oftener
 18 than once in three months.

XVIII. *Be it further enacted*, That if any jailor or his
 2 assistant, or any officer appointed to any duty by the
 3 County Court of any county, by virtue of this bill, shall
 4 be guilty of neglect or abuse of his or their duty, he or
 5 they shall be subject to indictment, and, on conviction,
 6 shall be fined or imprisoned at the discretion of the
 7 court.

XIX. *Be it further enacted*, That it shall be compe-
 2 tent for the County Court of each county, (a majority
 3 of the justices being present) to remove any jailor or
 4 keeper of the prison on ten days notice given him in
 5 writing; which notice may be given by any citizen of
 6 the county.

XX. *Be it further enacted*, That in the recesss of the
 2 court, if it shall be represented to the inspectors of any
 3 prison, that the jailor is guilty of cruel treatment of the
 4 prisoners, or other abuse of power or neglect of duty,
 5 it shall be competent for such inspectors to examine into
 6 the cause of complaint, and if they deem it well founded,
 7 they may call such jailor before three justices of the
 8 peace for the county, at the office of the County Court,
 9 and if a majority of such justices, and a majority of the
 10 whole number of inspectors, shall concur, it shall be
 11 competent for them to suspend such keeper, and appoint
 12 some suitable person to act in his stead until the next
 13 term of the court, taking bond and security of such

14 appointee as required of jailors in this bill, and the
 15 clerk of the County Court shall record the same. And
 16 the County Court at its next term, shall make a final
 17 decision on the case, either confirming the order of remo-
 18 val or reversing it, and reinstating such jailor.

XXI. *Be it further enacted*, That when any prisoner
 2 convicted in any county in which there is no sufficient
 3 workhouse, shall be sentenced to imprisonment in any
 4 other county, the same shall be at the expense of the
 5 county in which the offence was committed. But in
 6 all such cases, a credit shall be allowed for the reasonhble
 7 value of all the labor performed by such prisoner, and
 8 for the purpose of ascertaining whether there be any
 9 balance agninst such prisoner, an account shall be
 10 opened with him, charging him only the same rate al-
 11 lowed for feeding other prisoners, and allowing him a
 12 reasonable value for the labor performed by him, and if
 13 there be a balance against such prisoner, it shall be paid
 14 by the county in which the indictment originated.

XXII. *Be it further enacted*, That in cases of indict-
 2 ment against free negroes, in which the courts have the
 3 power of ordering them to be hired out, it shall be com-
 4 petent for the court to order such free negro to be im-
 5 prisoned in the house of correction at hard labor, for
 6 such term as the court shall adjudge; but in no case
 7 shall they be kept in the same apartment with white
 8 prisoners.

XXIII. *Be it fureher enacted*, That it shall be the duty
 2 of the grand jury, at each term of the County and
 3 Superior Court, to visit and examine carefully into the
 4 state of the prison and the treatment of the prison-
 5 ers, and report the same to the court, and if it appear
 6 from such presentment or otherwise, that the pri-
 7 son is not kept cleanly and well supplied with whole-

8 some food, and supplied with blankets sufficient to keep
 9 the prisoners comfortable, it shall be the duty of the
 10 solicitor to prosecute the jailor therefor; and, on con-
 11 viction, he shall be fined or imprisoned at the discre-
 12 tion of the court.

XXIV. *Be it further enacted*, That if any Minister of
 2 the Gospel offers to preach to the prisoners on the Sab-
 3 bath, it shall be the duty of the jailors to allow the
 4 same; and at all times to furnish each apartment with a
 5 copy of the Bible.

XXV. *Be it further enacted*, That it shall be the duty
 2 of the County Courts, at least once in every year, to
 3 make a full settlement with the jailor, and, at the next
 4 session of the General Assembly, to lay before the Leg-
 5 isature a full and fair statement of the operation of the
 6 law; showing the number of prisoners that have been
 7 in prison under this bill, the term of service, the busi-
 8 ness pursued, the expense and the profit arising there-
 9 from.

XXVI. *Be it further enacted*, That it shall not be law
 2 ful for any keeper of the jail or workhouse, to suffer
 3 or permit the prisoners to remain idle in the yard and con-
 4 verse together, but shall only permit them in the yard or
 5 shop while closely engaged at labor, and only in the
 6 daytime; and in all cases, when the prisoner is sentenced
 7 for one year or more, shall keep him secured by a chain
 8 while out of the jail, and shall not allow any persons
 9 unconnected with the management of the prison to visit
 10 the shops or yard without a written permission from a
 11 majority of the inspectors: *Provided*, that Ministers of
 12 the Gospel shall, at all times, be permitted to visit the
 13 prisons and talk with them, except in work hours.

A BILL

TO

LAY OFF THE STATE

INTO EIGHT

CONGRESSIONAL DISTRICTS.

RALEIGH:

SEATON GALE, PRINTER TO THE LEGISLATURE.

1852.]

[Introduced by Mr. C. L. Cook.—Read first time and passed, and ordered to be printed.]

A BILL

To lay off the State into Eight Congressional Districts.

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by the author-*
3 *ity of the same, That, for the purpose of electing re-*
4 *presentatives to the United States, this State shall be*
5 *divided into Eight Districts, as follows, to-wit: The*
6 *counties of Currituck, Camden, Pasquotank, Perquim-*
7 *ons, Chowan, Gates, Northampton, Hertford, Bertie,*
8 *Washington, Tyrrell, Halifax and Martin, shall compose*
9 *the first district; the counties of Hyde, Beaufort,*
10 *Edgecombe, Pitt, Green, Lenoir, Wayne, Craven, Jones,*
11 *Onslow and Carteret, shall compose the second district,*
12 *the counties of Moore, Cumberland, Bladen, Robeson,*
13 *Columbus, Brunswick, Sampson, Duplin and New*
14 *Hanover, shall compose the third district; the counties*
15 *of Wake, Johnston, Nash, Franklin, Warren, Granville*
16 *and Chatham, shall compose the fourth district; the*
17 *counties of Mecklenburg, Union, Cabarrus, Stanly,*
18 *Anson, Montgomery, Richmond, Randolph and David-*

19 son, shall compose the fifth district; the counties of
20 Stokes, Forsythe, Rockingham, Guilford, Caswell, Ale-
21 mance, Person and Orange, shall compose the sixth dis-
22 trict; the counties of Watauga, Ashe, Wilkes, Alexan-
23 der, Catawba, Lincoln, Surry, Yadkin, Davie, Iredell
24 and Rowan, shall compose the seventh district; and
25 the counties of Cherokee, Macon, Haywood, Buncombe,
26 Henderson, Yancy, McDowell, Rutherford, Burke,
27 Cleaveland, Gaston and Caldwell, shall compose the
28 eighth district; each of which districts shall be entitled
29 to elect and send one representative to the Congress of
30 the United States.

II. *Be it further enacted*, That all laws and clauses of
2 laws coming in contact with this act, be, and the same
3 are hereby repealed.

CONGRESSIONAL DISTRICTS.

FIRST DISTRICT.		THIRD DISTRICT.	
	Fed. Pop.		
Currituck	6,257	Moore	8,552
Camden	5,176	Cumberland	17,729
Pasquotank	7,708	Bladen	8,024
Perquimons	6,030	Robeson	11,080
Chowan	5,252	Columbus	5,308
Gates	6,878	Brunswick	5,951
Hertford	6,656	Sampson	12,311
Bertie	9,973	Duplin	11,111
Northampton	10,731	New Hanover	14,236
Washington	4,780		
Tyrrell	4,452		94,302
Halifax	13,007		
Martin	6,961		
	<hr/> 93,861		
SECOND DISTRICT.		FOURTH DISTRICT.	
	Fed. Pop.		
Hyde	6,584	Wake	21,123
Beaufort	11,716	Johnston	11,861
Edgecombe	13,770	Nash	9,034
Pitt	10,745	Franklin	9,510
Greene	5,321	Warren	10,366
Lenoir	6,181	Granville,	17,303
Wayne	11,478	Chatham	16,055
Craven	12,329		
Jones	3,935		95,252
Onslow	7,040		
Carteret	6,208		
	<hr/> 92,650		

CONGRESSIONAL DISTRICTS CONTINUED.

FIFTH DISTRICT.		SEVENTH DISTRICT.	
	Fed. Pop.		Fed. Pop.
Mecklenburg	11,724	Watauga	3,348
Union	9,258	Ashe	8,539
Cabarrus	8,694	Wilkes	11,642
Stanly	6,348	Alexander	5,003
Anson	10,756	Catawba	8,234
Montgomery	6,163	Lincoln	6,924
Richmond	7,936	Surry	8,143
Randolph	15,176	Yadkin	9,500
Davidson	14,123	Davie	6,998
		Iredell	13,062
	90,178	Rowan	12,329
			93,722
SIXTH DISTRICT.		EIGHTH DISTRICT.	
	Fed. Pop.		Fed. Pop.
Stokes	8,490	Cherokee	6,703
Forsythe	10,627	Macon	6,169
Rockingham	12,363	Haywood	6,907
Guilford	18,480	Bucombe	12,738
Caswell	12,161	Henderson	6,483
Alamance	10,166	Yancey	8,068
Person	8,828	McDowell	5,741
Orange	14,951	Rutherford	12,388
		Burke	6,919
	96,069	Cleaveland	9,697
		Gaston	7,228
		Caldwell	5,838
			94,877

A BILL

FOR THE

VIGOROUS PROSECUTION

OF

A JUDICIOUS SYSTEM

OF

INTERNAL IMPROVEMENTS.



RALEIGH:
SEATON GALES, PRINTER TO THE LEGISLATURE

1852

(Introduced by Mr. D. F. CALDWELL.—Passed first reading; referred to committee on Internal Improvements, and ordered to be printed.)

A BILL

For the vigorous prosecution of a judicious system of Internal Improvements in North Carolina.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That, hereafter, all profits, incomes, dividends and proceeds arising from any stock or stocks now held and owned, or that may be hereafter owned by the State, shall be paid directly into the treasury of the State, and at the end of each and every fiscal year, it shall be the duty of the treasurer, so soon as he ascertains the amount received from such sources, to inform the president of the board of internal improvement; and after such notice has been given by the treasurer, to the president of said board, it shall be the duty of said president to receive from the treasurer the money deposited in the treasury, arising from works of internal improvement, and deposit the same in such sound and solvent bank or companies as will allow him most for the use or hire of the same for the term of one year and no longer.

II. *Be it further enacted,* That, whenever the president of the board of internal improvements has deposited the money, as above required, and procured a certificate to that effect, it shall become the duty of said board to have one or more plates engraven in good style, of such denominations as they may deem necessary and

[7 proper, and notes or bills printed thereon, on the best of
 8 paper manufactured for such purposes, with not less
 9 than three margins or coupons on each end of every
 10 bill or note printed by them, which bills or notes shall
 11 be made payable in the stock owned by the State, in
 12 works of internal improvements, bearing interest at a
 13 rate not exceeding five per cent. per annum, to be paid
 14 by the treasurer of the board, at his office in Raleigh,
 15 when presented in sums of one hundred dollars or
 16 more.

III. *Be it further enacted*, That the notes or bills here-
 2 by authorised shall be signed by the president of the
 3 board of internal improvement, and countersigned
 4 by the treasurer of said board, and the amount and
 5 number of the notes or bills thus prepared and signed,
 6 shall be duly registered in a book kept by the comp-
 7 troller of State for this purpose, which book, together
 8 with the plates, notes, bills and certificates not signed
 9 shall remain in his office for the inspection of all
 10 persons who may feel interested in the transactions
 11 of said board; and when the bills, notes or certificates
 12 have been signed and countersigned, as above re-
 13 quired, they shall be paid into the treasury of the
 14 State, and shall be paid by the treasurer as a sub-
 15 scription on the part of the State, to such works of in-
 16 ternal improvement as the Legislature of the State
 17 may hereafter direct.

IV. *Be it further enacted*, That it shall be a misdemea-
 2 nor, and punishable as such, for the comptroller, the
 3 board of internal improvement, or any member of the
 4 same, to sign, issue or pay out, or cause to be paid out,
 5 to any person or persons, a larger amount of bills or
 6 notes than the money they have on deposit will pay
 7 the interest upon, for the term of one year; but it shall
 8 be lawful for said board of internal improvement, and

9 the comptroller of the State, to prepare, and sign, and
 10 pay to the treasurer of the State, as large an amount of
 11 bills or notes as the deposits at their command will en-
 12 able them to pay the annual interest upon.

V. *Be it further enacted*, That, when the aforesaid
 2 bills or notes have been presented to the board of in-
 3 ternal improvement, in sums of one hundred dollars, or
 4 the rise, for the payment of the annual interest due on
 5 the same, and the same shall have been paid on any
 6 one or more notes or bills, it shall be the duty of said
 7 board of internal improvement to see that one of the
 8 margins or coupons of all such notes or bills has been
 9 clipped and removed from the same, before they are
 10 returned to the owners thereof: and it shall be the fur-
 11 ther duty of said board to continue annually to clip and
 12 remove from all bills or notes upon which the interest
 13 has been paid, one of the margins or coupons, from the
 14 end of all such bills or notes until they have all been
 15 removed; and it shall be the duty of the board to re-
 16 deem and cancel all notes, or bills thus clipped, by issu-
 17 ing to the holders thereof new notes or bills from the
 18 same plates, upon the same terms and conditions, so of-
 19 ten as it may be deemed necessary and proper.

VI. *Be it further enacted*, That when said bills or notes
 2 are presented for the payment of interest, it shall be the
 3 duty of the president of the board of internal improve-
 4 ment, should the holders of the bills or notes desire it to
 5 be done, to issue for every hundred dollars thus presen-
 6 ted, certificates of stocks to the holders thereof, in some
 7 work of internal improvement, in which the State is a
 8 stockholder at the time of issuing said certificate.

VII. *Be it further enacted*, That it shall be the duty
 2 of the treasurer of the State, to countersign the certifi.

3 cate granted by the president of the board of internal
 4 improvement as aforesaid, when he shall have destroyed
 5 the bills or notes for which said certificate was granted ;
 6 and when the certificate thus procured shall be present-
 7 ed to the president and directors of the company upon
 8 which it was drawn, and the name of the holder thereof
 9 shall have been enrolled on their books as the name of
 10 one of their stockholders, such enrollment shall operate
 11 as a surrender and transfer of so much of the State's
 12 stock in said company to the holder of said certificate.

VIII. *Be it further enacted*, That if any person or per-
 2 sons shall falsely make, forge or counterfeit, or cause or
 3 procure to be falsely made, forged or counterfeited, or
 4 willing aid or assist in falsely making, forging, or coun-
 5 terfeiting bills, notes or certificates of stock, in imita-
 6 tion of, or purporting to be a bill, note or certificate, is-
 7 sued by order of the board of internal improvement, or
 8 shall at any time pass, or receive with intent to pass-
 9 utter or publish as true, any false, forged or counterfeit,
 10 ed note, bill or certificate, purporting to be a bill, note
 11 or certificate, issued by order of said board or any of
 12 its members, knowing the same to be falsely altered with
 13 intent to defraud said board or any other body politic ;
 14 any such person or persons shall be deemed guilty of
 15 felony, and being thereof convicted by due course of
 16 law. shall be imprisoned not exceeding ten years, and
 17 fined not exceeding five thousand dollars.

IX. *Be it further enacted*, That it shall be the duty of
 2 the Board to keep separate and distinct and apart from
 3 the money deposited in the banks or companies with
 4 which they may deposite the annual profits of works of
 5 Internal Improvement, the sum or sums received from
 6 the same, as a bonus for the hire or use of the deposits,
 7 made with them by said board of internal improvement ;
 8 and the board of internal improvement are hereby au-

9 thorized to claim, receive and hold all monies received
 10 from said banks or companies, for the use or hire of the
 11 deposits made with them, and to divide said bonds
 12 equally between the members of the board of internal
 13 improvement, as a salary for the services they may be
 14 called on to render in carrying out the provisions of
 15 this act.

X. *Be it further enacted*, That the first five hundred
 2 thousand dollars of bills or notes, prepared for circula-
 3 tion under the provisions of this act, shall be subscribed
 4 and paid by the treasurer of the State, to the capital
 5 stock of the North Carolina and Atlantic Railroad
 6 Company, as a subscription on the part of the State to
 7 said Railroad Company, when the stockholders in said
 8 road shall have paid, in cash or labor, to the treasurer
 9 of the company, the sum of one hundred and fifty thou-
 10 sand dollars, and the president of said road has certi-
 11 fied that fact under the seal of his company to the pre-
 12 sident of the board of internal improvement.

XI. *Be it further enacted*, That the board of internal
 2 improvement be, and they are hereby authorised to
 3 draw upon the treasurer of the State, for such sum as
 4 may be necessary to carry into effect the requirements of
 5 this act,

XII. *Be it further enacted*, That all laws and clauses of
 2 laws, coming in conflict with the provisions of this act,
 3 be, and are hereby repealed, and that this act shall be in
 4 force from and after its ratification.

[Introduced by Mr. J. G. McDUGALD.—Read first time and passed, and referred to Committee on Judiciary, and ordered to be printed.]

A BILL

Concerning the place of trial for Civil Process, returnable before Justices of the Peace.

1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That whenever any civil process for the recovery of money, either for debt or damages, shall be issued in the county in which the defendants or one of them may reside, and shall be returnable out of Court before one or more Justices of the Peace, the same shall be returnable at some place within the captain's district wherein the defendants or one of them shall reside, and if the process be returned otherwise than is herein provided, the justice or justices of the peace, before whom the same shall be returned, shall, on exception taken by or on behalf of the defendants, dismiss the same, endorsing thereon the ground of the dismissal; and if the exception so taken be overruled, the defendants, on appeal, shall have the same advantage thereon, on motion.

II. *Be it further enacted,* That if any officer shall violate the provisions of this act, he shall be deemed guilty of a misdemeanor, and upon conviction therefor shall be fined or imprisoned at the discretion of the court.

III. *Be it further enacted,* That this act shall be in force from and after its ratification.

PLAN FOR THE
DIVISION OF THE STATE
INTO
SENATORIAL DISTRICTS.

RALEIGH:
SEATON GALES, PRINTER TO THE LEGISLATURE.

[Introduced into the House of Commons, by Mr. Mc-
INTYRE.—And, the Bill which accompanied it having
been printed, *the Plan* was also ordered to be printed.]

SENATORIAL DISTRICTS.

DISTRICTS.	Tx's	Exc.	Where Carried.
1 Currituck	1045		
Camden	1139		
	2184		
Excess from No. 2	582		
Ratio	2766		
2 Pasquotank	1945		
Perquimons	1571		
	3516		
Ratio	2766		
	750		
	582	—	Carried to No. 1.
	168	168	Lost.
3 Gates	1354		
Chowan	1856		
	3210		
Ratio	2766		
	444	—	Carried to No. 4.
4 Hertford	1736		
Excess from No. 3	444		
	2180	586	Deficit.
5 Northampton	2469		
Excess from No. 20	297		
Ratio	2766		

DIVISION CONTINUED.

DISTRICTS.	Tx's	Exc.
6 Halifax	3461	
	2766	
	695	
	103	Carried to No. 7.
		592 Lost.
7 Bertie	2663	
Excess from No. 6	103	
Ratio	2766	
8 Martin	1667	
Washington	1190	
	2857	
Ratio	2766	
	91	Carried to No. 9.
9 Tyrrell	643	
Hyde	1172	
	1815	
Excess from No. 8	91	
Do from No. 11	860	
Ratio	2766	
10 Beaufort	2514	
Excess from No. 11	252	
Ratio	2766	
11 Craven	3905	
	2766	
	1139	
	860	Carried to No. 9.
	279	
	252	Carried to No. 10.
	27	27 Lost.

DIVISION CONTINUED.

DISTRICTS.	Tx's	Exc.	Where Carried.
12 Lenoir	1571		
Greene	1263		
	2834		
Ratio	2766		
	68	68	Lest.
13 Pitt	2412		
Excess from No. 14	354		
	2766		
Ratio	2766		
14 Edgecombe	4515		
Ratio	2766		
	1749		
	354		Carried to No. 18
	1395		
	360		Do No. 15
	1035		Do No. 17
15 Wayne	2406		
Excess from No. 14	360		
	2766		
Ratio	2766		
16 Johnston	1932		
Excess pr. No. 1	834		
	2766		
Ratio	2766		
17 Nash	1720		
Excess from No. 14	1035		
	2755		
Do. from No. 18	11		
	2766		
Ratio	2766		

DIVISION CONTINUED.

DISTRICTS.	Tx's	Exc	Where Carried.
18 Wake	5323		
Ratio	2766		
	2557		
	834		Carried to No 16.
	1723		
	11		Do No. 17.
	1712		
	531		Do. No. 19.
	1181		
	422		
	759	759	If carried to Moore and M ^t 'y w ^l d make deficit.
19 Franklin	2169		
Excess from No. 20	66		
	2235		
Do from No. 18	531		
	2776		
20 Warren	3129		
	2766		
	363		
	297	297	Carried to No. 5.
	66	66	Do No. 19.
21 Granville	3823		
	2766		
	1057		
	1012		Carried to No, 22.
	45	45	Lost.

DIVISION CONTINUED.

DISTRICTS.	Tx's	Exc.	Where Carried.
22 Person.	1754		
	1012		
	2766		
23 Orange	3014		
	2766		
	248	248	Lost.
24 Alamance	1675		
Randolph	1726		
	3401		
	2766		
	635		
	273	—	Carried to No. 25.
	362	---	Carried to No. 41.
25 Moore	960		
Montgomery	763		
	1723		
Excess from No. 24.	273		
	1996		
		770	Deficit.
		759	Excess from Wake.
		11	Deficit.
26 Chatham	2342		
Excess from No. 18	424		
	2766		
27 Cumberland	4097		
	2766		
	1331		
	1228	—	Carried to No. 28.
	103	—	Carried to No. 29.

DIVISION CONTINUED.

DISTRICTS.	Tx's	Exc.
28 Richmond	1538	
Excess from No. 27.	1228	
	2766	
29 Robeson	1389	
Bladen	1284	
	2673	
Excess from No. 27.	103	
	2776	
	2766	
	10	10 Excess.
30 Columbus	659	
Brunswick	939	
	1598	
Excess from No. 31.	1168	
	2766	
31 New Hanover	5584	
	2766	
	2818	
	1168	Carried to No. 36.
	1650	
	808	Carried to No. 32.
	842	
32 Sampson	1958	Carried to No. 33.
Excess from No. 31	808	
	2766	
33 Duplin	1911	
	842	
	2753	
Excess from No. 34.	13	
	2766	

DIVISION CONTINUED.

DISTRICTS.	Tx's	Exc.	Where Carried.
34 Carteret	707		
Jones	921		
Onslow	1163		
	2851		
	2766		
	85		
	13		Excess from No. 33.
	72	72	Lost.
35 Anson	337		
	2766		
		429	Deficit.—There is an excess from Rowan, Cabarrus and Mecklenbg, would make the Ratio.
36 Union	1110		
Stanly	701		
	1811		
Excess from No. 37.	955		
	2766		
37 Cabarrus	1754		
Rowan	2232		
	3986		
	2766		
	1220		
	955		Carried to No. 36.
	265		
		265	Lost.

DIVISION CONTINUED.

DISTRICTS.	Tx's	Exc.	Where Carried.
38 Davie	1078		
Davidson	1861		
	2939		
	2766		
	173		
	107		Carried to 42
	66	66	Lost.
39 Guilford	2853		
	2766		
	87		Carried to No. 41.
40 Caswell	2898		
	2766		
	132		Carried to No. 41.
41 Rockingham	2185		
Excess from No. 40	132		
Do do 39	87		
Do do 24	862		
	2766		
42 Stokes	947		
Forsythe	1712		
	2659		
Excess from No. 38	107		
	2764		
43 Surry	882		
Yadkin	682		
Wilkes	831		
Ashe	750		
	3145		
	2766		
	379		Carried No. 44.

DIVISION CONTINUED.

DISTRICTS.	Tx's	Exc.	Where Carried.
44 Watauga	269		
Caldwell	712		
Alexander	425		
Burke	1071		
	2846		
	2766		
	90		
45 Catawba	1097		
Iredell	1825		
	2922		
	2766		
	156		
46 Mecklenburg	3044		
	2766		
	278	Lost	If carried to Anson, will make the Ratio.
47 Lincoln	1248		
Gaston	1010		
	2536		
Excess from No. 45.	156		
	2692		
Do from No. 48.	74		
	2769		
48 Cleaveland	1096		
Rutherford	1914		
	2920		
	2766		
	154		
	74		Carried to No. 47.
	80		Carried to No. 49.

7 held to be full and sufficient evidence of such lease or
 8 power of attorney, although the party offering the
 9 same shall be entitled to the possession of the original,
 10 and shall not account for the non-production thereof,
 11 unless by a rule or order of the court made upon affi-
 12 davit, suggesting some material variance from the origi-
 13 nal, or other sufficient grounds, such party shall have
 14 been previously required to produce the original; in
 15 which case the same shall be produced or its absence
 16 duly accounted for, according to the course and practice
 17 of the court.

III. Whereas, from the uncertainty of county boundaries,
 2 doubts in some cases exist whether the owners of land
 3 adjacent to county lines have had their grants or deeds
 4 proved and registered in the proper county: For remedy
 5 whereof, *Be it enacted &c.*, That all deeds, leases or
 6 other conveyances for land lying within five miles of
 7 the reputed line, dividing two or more counties, which
 8 have been proved and registered in one of such coun-
 9 ties, may be registered upon the same probate in any
 10 other of such counties, and such registration shall be
 11 valid and sufficient.

[HOUSE DOCUMENT, No. 55.]

REPORT

OF THE

JOINT SELECT COMMITTEE

UPON THE

CATAWBA RIVER.

RALEIGH:

BEATON GALES, PRINTER TO THE LEGISLATURE

1852.

[Report made by Mr. WHEELER.—Bill read the second time and ordered to be printed, and made the Special Order for Monday next]

REPORT.

The Joint Select Committee, to whom was referred a resolution from the House of Commons instructing the Committee to examine the act of 1848-'9, chapter 195, entitled "An act to improve the navigation of the Catawba River," &c. have had the same under consideration, and

REPORT :

That the act alluded to was defective, inasmuch as it requires the books to be opened on the first of March following the enactment, by the persons named as commissioners ; when the fact was, that the act did not reach the commissioners until long after the period had elapsed when the books should have been opened. This is remedied by the bill herewith submitted.

The act alluded to, in the eighth section, "requires the company to complete the navigation of the river, so as to admit the safe passage of Boats drawing 18 inches of water through the Pleasant Gardens, within seven years from the passage of said act." This has also been remedied by the bill herewith submitted.

Your Committee are deeply impressed with the value of this important work. This broad and beautiful stream, having its head waters in McDowell county, courses down through Burke, Caldwell, Catawba, Alexander, Iredell, Lincoln, Gaston, and Mecklenburg Counties ; embracing a region of our State unparalleled for the beauty of its scenery, the healthfulness of its climate, and unsurpassed by the fertility of its soil.

It embraces the rich Valley of the Catawba, and contains, in the counties above named, a federal population of 70,671 inhabitants.

Its annual products, according to the census of 1840, are 2,218,387 lbs. cotton; 2,695,149 bushels of corn; 359,676 bushels of wheat; 75,000 lbs. wool; 50,000 bushels of potatoes; 1000 tons of iron; and \$75,000 worth of gold.

These bounties of generous nature, and the result of patient industry, are rendered much less valuable by the insulated position of the country. The trade now is carried on by means of wagons; by reason of the weight of many articles produced, the expense of transportation so exceeds the profits, that they, in a manner, are of no avail. But open this channel, pointed out by the hand of nature, and a new system is introduced. All those profuse productions will find their way to market, and many that are now useless will be a source of revenue to the farmer.

And again: All the necessities of life are enhanced in price by this heavy and expensive transportation, and is paid as directly by the consumer, as if he paid it in shape of taxes to the Sheriff.

In a Memorial to the General Assembly, in 1830, it was stated, that Iredell county, alone, paid an annual tax of \$5,000 on the article of salt. Sugar, coffee, molasses, and other articles, come within this category. Elaborate statements are not necessary to prove the heavy tax that this community labors under, for want of this improvement. The facts are so evident and stubborn, as to be apparent to the most unobservant mind. Your Committee has too much respect for the intelligence of the General Assembly to urge the advantages of this great work.

That it is practicable, your Committee have no doubt. They have the honor herewith to submit a Report of a Survey of this river, made in 1820, by the State Engineer. But the Railroad from Columbia to Charlotte has lessened much of the obstructions to the navigation, the principal of which lie below the point where the railroad crosses the river.

By the advantages and improvements of science, steam-boats can now be constructed capable of transporting heavy freight, which only draw from 12 to 18 inches water.

In the opinion of your Committee, this depth of water can be produced with but small expense compared to the advantages secured by this improvement.

Had this great natural outlet for produce, traversing as it does luxuriant and fertile territory, been in any other State in our confederacy, it is believed by your committee that it would have been navigable long ago;—while here its situation is as unimproved as when its waters were only crossed by the bark canoe of the wandering Indian.

There is no portion of the State that has contributed more freely of blood and treasure to maintain the character and honor of the State. It was proved in “times that tried men’s souls” on King’s Mountain, and at Ramsonr’s Mill; and, since, by ready and constant contributions, which have swelled our State coffers. It is a recorded fact, that this vast region of country has rarely or never been the recipient of the many improvements now so bountifully extended by the State to every other section. It is but just and equitable that the favor and improvements of the State should be as the genial dews of Heaven, dispersed to all alike, and equal.

With these views, your Committee submit the bill, accompanied with the Report of the Engineer, and recommend the passage of the bill into a law.

Respectfully submitted,

JOHN H. WHEELER,

Chairman.

A BILL

To amend An Act passed 1848-'9, chapter 195, entitled
 "An Act to improve the navigation of the Catawba river, from the point where the Railroad from Columbia to Charlotte crosses said river, up to Rocky Ford, near Morganton."

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That so much of said act, sec. 1, as requires the books to be opened on the 1st day of March, 1849, and so much of the 8th section as requires the company to complete the navigation of the said river, so as to admit the safe passage of boats drawing eighteen inches of water through the Pleasant Gardens, within seven years from the passage of said act of 1848-'9, be and the same are hereby repealed.

II. *Be it further enacted,* That all the corporate rights conferred by said charter, be and the same are hereby renewed; and the commissioners therein named shall and may proceed to open books of subscription at such times and places as they may deem proper; and continue to receive subscriptions to the amount of the capital stock named in said charter, to wit, one hundred thousand dollars.

III. *And be it further enacted,* That, when two thirds of said stock is subscribed by individuals, and this fact is certified by the treasurer of said company to the treasurer of the State, the said treasurer of the State is hereby directed to subscribe the remaining one-third of said stock; which stock shall be paid in on the same terms that the individual stock shall or may be, by the rules and regulations of the directors.

IV. *And be it further enacted,* That the State shall be
 2 represented in proportion to its stock, at all the general
 3 meetings of the stockholders, by such person or persons
 4 as the Governor shall appoint.

V. *Be it further enacted,* That the Governor be hereby
 2 directed to employ some suitable engineer to examine
 3 this river, and report forthwith the feasibility and advan-
 4 tages of this improvement ; and that he be authorised
 5 to draw upon the public treasury for an amount suffi-
 6 cient to defray the expenses of the same.

VI. *Be it further enacted,* That this act shall take ef-
 2 fect from and after its ratification.

(A)

R E P O R T

*On the Catawba River, to the President and Directors
of the Board of Internal Improvements of the State
of North Carolina, by*

HAMILTON FULTON.

Raleigh, Nov. 17, 1820.

GENTLEMEN:—Some work has been done on various parts of this river from Pleasant Gardens to near the South Carolina line. The Directors have, however, very wisely suspended their operations for the last year until an Examination and Report could be obtained. The President of the Company did not think it necessary to call my attention to any part of the river higher than Muddy Creek, at which place the remarks in the subjoined Report commence.

It is not my intention to point out what ought to have been done; but what ought now to be done, to render this river as perfectly navigable as the limited state of the Company's funds will allow.

The obstructions in so extensive a river as the Catawba are too numerous to be clearly described in a general Report. I shall, therefore, give them in detail as they occur, from the head of the navigation to the South Carolina line, pointing out at each place what appears to me the best mode of improvement.

The first obstruction is about two hundred yards below the mouth of Muddy Creek. An imperfect attempt has been made to improve this shoal. It will be better to take the materials composing the left wing of the fish-trap, and

extend that of the right, making the channel by the left bank. There is a heap of stones collected near the lower end of the present channel. These must be removed, and used in the wing and side dams. The fall at this place is one foot.

The shoal at Greenlee's Island has had some stones cleared out, which have been placed in the best channel. These must be removed, and laid parallel to the left bank, where the navigation channel ought to be. At the lower end of Greenlee's Island there is another fall, where the dams have been made obliquely, from both sides, with a narrow channel in the middle. This dam should be extended diagonally from the right towards the left bank, which is the best channel. The fall at these two places is two feet, and the distance from Muddy Creek is three quarters of a mile. One and a quarter miles below Greenlee's Island there is a small fall of six inches; and one hundred yards lower another of six inches. The channel for these falls must likewise be taken by the left bank.

Two and a quarter miles below Muddy Creek, and opposite Linville Creek, there is a cluster of Islands. At this place something has been done to improve the main channel; but this must be abandoned, and the navigation taken down the left side of the Island. This channel being considerably longer, the fall is gradual, and nowhere so rapid as to prevent its being navigated. The only work required, is the removal of two large stones or pieces of solid rock, near the lower end. The fall at these islands is four feet, and the distance by the left channel half a mile.

Half a mile below the above are two other islands. A channel has been made at the angle of a fish trap. The left wing of the fish-trap should be removed, and the right wing extended, taking the navigation by the left bank of the channel. Near the lower end there are two places where some rock-cutting will be necessary. The fall at these islands is three feet. Three quarters of a mile below the last two islands is O'Neill's fish-trap, which requires

nothing else being done than making the channel wider at the left bank. This fall is six inches. Half a mile lower is Corpenney's Ford, which is navigable at either the right or the left side of a large rock. At the end of the next quarter of a mile is Brandon's Bottom Ford, where there is one foot six inches fall. The fish-trap dam must be removed near the right bank, and some rock blasted from a ledge a short distance from the right bank. Half a mile further is May's fish-trap, at which there is a fall of one foot. All that is wanted here is to remove the fish-trap dam wide enough to afford a sufficient channel. In another half mile there are two fish-traps, (London's and Daniel's :) the first has a fall of one foot: the second of one foot three inches. The fish-traps must be taken away and a channel made where they stand.

At the top of Sherrill's Island is a fall of one foot; at the middle another of one foot; and at the lower end a third of one foot. The length from Daniel's fish-trap is a quarter of a mile. The channel to improve these falls should be kept by the right bank. Some rock cutting will be necessary at the upper fall. Half a mile further is John Winter's Island, which has a fall of one foot. The small channel on the left has been partially cleared of trees; some, however, still remain, which must be removed.

One mile below Winter's Island is Ballew's fish-trap, with a fall of one foot six inches. The best situation for a navigation channel will be between the fish-trap and the right bank. Half a mile farther is the Long Shoal, in which there is a fall of three feet in three hundred yards of length. A channel has been cleared of the loose stones; but, in order to avoid rock-cutting, it has been made in a zig-zag direction. As this mode of improvement makes a difficult navigation, either in ascending or descending, it should never be adopted. A good navigable channel may be made by a wing and side dam along the left bank.

Half a mile lower than this long shoal is Avery's Island fish-trap shoals. The best navigation will be by the small

channel on the right side of the island, and close by the right bank. The fall here is one foot six inches. A quarter of a mile below Avery's Island are the Rock Shoals, of one foot six inches fall. Although there is a sufficiency of water in the present channel, yet the navigation will be much improved by carrying it to the left bank; the fall will be more gradual and more easy of ascent. A quarter of a mile farther is the Swan-pond shoal, where a channel has been made by wing and side-dams in the middle of the river. At the upper end of this channel there is a heap of stones which must be taken away. The lower end of the channel must be widened by removing a part of the wing dam on the left. The stones taken from the heap and the wing dam should be used in the extension of the side-dams.

Three-quarters of a mile below the Swan-pond is Avery's lower Island. The channel on the right side of the Island is the smallest, but the most preferable, it being navigable at present; the fall is one foot six inches. In another three-quarters of a mile is Johnston's fish-trap; the fall here is also one foot six inches. The fish-dams have been used for the navigation, but it will be better to remove the dam on the left, and with the materials extend the dam from the right to near the left bank. Half a mile lower is a small fall of six inches, but there is a sufficiency of water for navigation. A quarter of a mile farther is Tate's fish-trap.

The dam on the right should be removed, and that on the left extended so as to make the channel on the right bank. The fall at Tate's fish-trap is one foot six inches.

Half a mile below the above fish-traps are the Buffalo shoals. A part of the wing-dam must be removed from the left and applied to the right as a side dam. The fall at these shoals is one foot six inches. A quarter of a mile lower is Greenlee's ford with a fall of two feet. Some dams have been made to leave the navigation channel in the middle of the river. It will be preferable to have it near the left bank. This will be effected by removing the wing dam on the left, and extending that on the right. The

materials of the lower wing dam on the left may be converted into side dams. A quarter of a mile farther is McDowel's island at the mouth of Silver creek. The channel by the right side of the island is navigable at present, and requires nothing to be done. There is a fish-dam which should be removed from the Island at the lower end to the middle of the channel. Two hundred yards from the island there is a small fall of six inches which is navigable. A quarter of a mile below McDowel's island is McDowel's ford, with a fall of one foot. Wing dams have been made from both sides; the one on the right side is shortest, which it will be better to remove, and extend that on the left so as to bring the navigation nearer the right bank. A quarter of a mile lower is the Big shoal, with a fall of two feet. The obstruction here is solid rock, which will require some blasting to afford a sufficient depth of water. Some loose stones have been laid on the left side of the present channel, which must be removed in order to widen it.

One and a quarter miles below the Big Shoal is Fleming's Ford where there are several islands both above and below it. The improvements were made on the right side of the first island, where there is a fall of one foot. One quarter of a mile lower is Fleming's Shoal with a fall of two feet. Here the current is so strong and the channel so winding, that I was induced to examine minutely the channel on the left side of Fleming's Island, which I found to be much the best way of avoiding the two last mentioned falls. This channel will require no other improvements than blasting a small piece of rock, deepening a small gravel shoal at the upper end and removing some logs. From the top of this channel to the lower end the distance is three quarters of a mile, and the fall three feet. Three quarters of a mile below Fleming's Island there is a small fall of six inches. This fall is caused by several pieces of solid rock. There are, however, various channels fit for navigation. Half a mile further is Rocky Ford, with a fall of four feet

in a quarter of a mile. Near the upper end of the shoal there is an old fish-trap dam, through which two channels have been opened. Neither of these are wide enough. The one nearest the middle must be widened, and some rock blasted to afford a straighter course throughout the remainder. In the next quarter of a mile there are two falls of one foot each. In these a few stones must be removed. A quarter of a mile lower at a small island opposite Deal's plantation, there is a fall of two feet through which a channel has been made, but it is too narrow. In the next three quarters of a mile there are four falls of six inches each. These are all navigable at present. The last is at Henissee's, where the channel must go to the left bank. In this channel there are two fallen trees and an overhanging willow which must be cleared away.

One mile further is the mouth of Lower Creek; a quarter of a mile below is a small fall of six inches. There is a channel by the right bank. In another quarter of a mile are Johnston's Shoals, which extend for half a mile, with a fall of five feet. From the top of these shoals the channel must be conducted by the right bank for three hundred yards; from thence some rocks must be blasted to make a safe channel. At an old fish-trap a channel has been opened where the trap stood, but it is too narrow. Half a mile lower is Hawshaw's Fall, where there is a small island; by the left of this island the best channel will be obtained. A few rocks will require to be blasted near the mouth. At this place there is one foot six inches fall. For one mile there is smooth water to Brateher's Falls, where there is a navigation channel in the middle with a fall of nine inches. Half a mile lower is an island, above Lovelady Ford, at which there is a fall of one foot. Below the ford there is another island; the left channels at both these islands are the best. For a quarter of a mile below the last there is a cluster of islands with three feet fall. There is no serious interruption at this place. At the lower end there is an old fish-dam at which the channel must be

widened. A quarter of a mile below these islands is McCall's fish-trap, where there is one foot six inches fall. About one-third of the river from the right bank is the best place for a navigation channel. For two and a half miles there is an uninterrupted navigation to Ballew's Shoals where the fall is one foot. At this shoal there is always plenty of water for navigation. Half a mile farther is Ballew's Lower Shoal. The fall is one foot six inches. This shoal affords also a sufficiency of water.

Three-quarters of a mile below Ballew's Lower Shoal is Spencer's Shoal with one foot fall. A fish-trap stood here which has been removed and a channel made in its place. The channel must be widened and some rock which stands above the channel must be blasted. In the next quarter of a mile are several small falls—in all one foot. These are without any impediment to the navigation. Half a mile lower are Bowman's islands. The channel on the right is navigable at present. Near the lower end of these islands a channel has been made through an old fish-trap, which is too narrow. The fall at this place is three feet in three furlong's in length. Two miles below Bowman's Island commence

THE DEVIL'S SHOALS.

The highest of these shoals must be improved by a wing-dam extending from the left bank towards the right, as immediately below it there is a good channel on that side. This fall is two feet six inches. Three furlongs from the top there is a fall of six inches. In this fall there are several channels requiring no improvement. In the smooth water below the last fall there are a few stones or rocks which ought to be removed. The remainder of the shoals to the first lock-pond have a fall of four feet. The best way to improve this fall will be to clear a channel about one-third of the width of the river from the left bank, with wing-dams built at the upper end, and side-dams along to the

bottom of the falls. A quarter of a mile below the first lock another has been partly built. From the tail of this lock it is intended the navigation should pass through a narrow channel between two islands. This channel is not more than one hundred yards below the lock, and leaves the river at a right angle; which circumstance makes it awkward to navigate when there is any flood in the river. From this tranverse channel the navigation goes down the right side of the island; from the top of which to Settle mire's Landing the distance is a quarter of a mile, and the fall three feet.

These locks are probably the rudest imitation which have ever been attempted; but, as considerable expense has been incurred in their erection, it will be well to let them remain as long as the materials will last. They ought, however, to be raised at least one foot higher each. Paddles must likewise be fixed on the gates. There is no way at present of opening them but by main strength, which must in a short time tear the gates to pieces. There is, perhaps, no engine connected with the inland navigation, which requires so much pains to be bestowed upon it as in building a lock. As soon as time will permit, I intend drawing the plan of a timber lock for the future guidance of this Company.

From Settle mire's Landing to the top of the Horse Ford Shoals the distance is five miles. In the first half mile the fall is four feet, and the remainaer may be estimated at two feet per mile. In this distance there is no interruption to the navigation worthy of notice.

HORSE FORD SHOALS.

At the top of these shoals there are two islands: one on the right, and the other on the left side of the main channel. There is a ledge of rock which extends quite across the main channel from the lower end of the one island to the ower end of the other. This ledge of rock continues through the side channel by the right cank. After examin-

ing the several channels, I found the one by the left bank the preferable. At the upper end of this channel there is a gravel shoal, and a little lower a ledge of rock. In both these obstructions a navigable channel must be made. About two-thirds of the way down there is another gravel shoal and some loose rock. These must also be removed. The best situation for the channel will be about one-third of the width from the left bank. The stones removed at this place must be converted into a wing-dam from the island towards the navigation channel. About one hundred yards from the lower end of the island there are some large solid rocks in the middle of the channel; but, between them and the left bank, a navigation channel may be easily made by removing some loose stones. There is at the top of the above island, a very favorable situation for a wing-dam, which should be extended into the main channel for fifty yards in length. This will induce plenty of water to pass down for the purposes of navigation and keeping the gravel shoals clear. The length of this channel is a quarter of a mile, and the fall two feet six inches. A quarter of a mile below the above is Bunt's Island, near the head of which there is a ledge of rock across. A channel can be cut through this rock without much difficulty near the left bank. Towards the lower end of Bunt's Island there is another ledge, with a gravel shoal. About mid channel will be best for a passage. From the ledge of a rock a side-dam must be built parallel to the left bank, to retain a sufficiency of water for navigation. From the upper end of the channel to the termination of the side-dam, the fall is four feet six inches. A wing-dam must be built at the upper end of Bunt's Island.

At the top of a little island above the Horse Ford Island, a wing dam must be built, and a side-dam put in between the two islands. Immediately below the ford there is a shoal, apparently rock and gravel, through which a channel must be cleared and wing-dams built from each side. Two hundred yards below the ford there are several shoals, partly

gravel and partly rock. On the upper ledge of rock a wing-dam must be built from the left bank, making the navigation channel on the right bank. At the lowest ledge the channel must be by the end of a large rock situated about one-third across the channel from the right bank. About two-thirds down the island there is another ledge of rock, which may be avoided by taking the right side of a very small island which is at present stopped up by sand and logs. A small addition should be made to the height of this ledge by building a wing dam on part of it. From the upper to the lower end of these shoals the distance is half a mile and the fall four feet. One hundred and fifty yards below the Horse Ford Island is Stoner's Island. The small channel by the left wing of this island is so much obstructed by solid rock that it will be better to clear a channel from the lower end of the Horse Ford Island, along the left bank of the main channel, to the bottom of Stoner's Island.

Opposite to Horse Ford Creek there is another island. The smallest or left channel is the best. A wing-dam must be extended to some distance from the upper end of the island. One hundred and fifty yards below this island a wing-dam must be made from the ledge of rocks towards the left bank, which will wash away the gravel and afford a sufficiency of water.

About half way between the last mentioned island and the lowest there is a ledge of rocks with two fish-traps upon it. The best channel will be where the left fish-trap stands. At the top of the left channel of the lowest island there is a ledge of rock, and at the lower end a gravel shoal with a very rapid current. There is also, a ledge of rock running nearly across the main channel; but it will be the preferable for navigation, by constructing a wing-dam and clearing a channel near the left bank. The fall at this place is four feet. From thence the channel will be by the left bank to Sherrill's Landing. The whole length of the Horse Ford Shoals is estimated at two miles and a half.

There is a small shoal below Sherril's Landing, in which a channel may be made either by the left bank or in the middle of the channel. The Gunpowder Shoals present no obstacle of any consequence. There is a small shoal at the mouth of Upper Little River. The left side of a small island is the best channel. The fall at Sherril's Landing, Gunpowder, and Little River, is three feet. At Stevenson's Shoal there is a fall of one foot, but no obstruction. The deepest water is by the right bank.

At Keller's Shoal the navigation must be taken by the left and a channel made where the fish-trap now stands. At the lower end of this shoal there is a small island. The main or left channel is the best. These shoals extend for half a mile, with a fall of four feet. A quarter of a mile below the island there is another shoal of one foot fall. The middle of the river is the best channel. For a mile below the above shoal the river has a very rapid current, but there is no obstruction of a serious nature. The fall on this mile is three feet.

Below the mouth of Second Little River there is a shoal with a fall of one foot. The best water is by the left bank.

From the lower end of the Horse Ford Shoals to the upper end of the Oxford Shoals, the distance may be estimated at nine miles.

OXFORD SHOALS.

These shoals commence opposite to the mouth of Snow Creek. The upper part of this shoal must be improved by a wing-dam from the middle of the river towards the right bank. There is a ledge of rock very favorable for this purpose. As the right bank is more free from impediments than any other part of the river, it will be best to keep the navigation channel along it the whole way, confining the water with side-dams, and throwing in a sufficiency by wing-dams built at the most favorable situations.

There is no part of this shoal which has any considerable fall. The whole consists of a succession of small falls, which, owing to the great width of the river, has the water but thinly spread over them. The length of these shoals is three quarters of a mile, and the fall nine feet.

Four furlongs below the Oxford Shoals is a small shoal, Harman's Landing, with a fall of six inches. Two hundred yards lower there is another of six inches. For half a mile there is a continuation of small falls: in all one foot. These falls will be easily improved by making channels with small wing-dams. For nearly a mile the river is smooth, and deep enough with the exception of two small falls of six inches each. The best channel in these is the middle of the river. A quarter of a mile lower there is a succession of small shoals, with a fall of two feet. The right bank is the best channel for improvement.

For one mile the water is without any perceptible motion. Thereafter, for half a mile, there is a very gentle current without any obstacle. The fall in this distance does not exceed one foot.

Above the mouth of Lower Little River there is a fall of one foot, which is caused by a fish trap, through which a channel may be made anywhere. Three furlongs lower is Three-Cornered Island. At the upper end of this island a wing-dam must be made to extend from the point of the island towards the left bank. The fall at this place is one foot six inches. At the lower end of the island there is a very small island, to which a ledge of rock extends from the left bank. Upon this ledge a wing-dam must be built, to induce the water to pass by the right side of the small island in which there is a gravelly shoal. If this shoal is deepened, the additional quantity of water afforded by the wing-dam will keep it open. The fall of this shoal is one foot six inches. Immediately below the Three-Cornered Island there are a great number of rocks above water. The most proper mode of improving this part of the river will be to extend a wing-dam from the middle fish-trap-dam to

wards the right bank, which is clear of rocks of any consequence. At the lowest ledge of rocks a wing-dam must be built to divert the water to the right bank, along which the navigation must pass to the bottom of the shoal. The length of the channel by the left of the Three-Cornered Island is three furlongs. From thence to the lower end of the shoal is six furlongs, with a fall of four feet. From the lower end of the above shoals to the upper end of the Look-out Shoals the distance is two miles, with a fall of two feet. There is no obstruction whatever in this distance.

LOOK OUT SHOALS.

These shoals appear to me the most formidable obstruction in that portion of the Catawba river which is within the limits of this State. They are, for a distance of three miles, one continued succession of small falls, with the exception of a fall of four feet, nearly opposite to Sherrill's mill. The channel of the river is very wide, which allows the water to diffuse itself so thinly over the whole, that it will become an expensive operation to collect a sufficiency of water for a navigation.

There is no doubt in my mind, but the best manner of improving this part of the river would be by erecting dams across the river, with locks on one side; but on account of the width of the channel, I am afraid the expense will be more than the company's funds can afford. Under these circumstances, it will be advisable to adopt a more cheap, although less efficient mode, by making a wing dam across the channel of the river at the lower end of an island, where the falls commence. This wing-dam must be so constructed as to throw the greatest quantity of water towards the right bank, along which it must be confined by a side dam until it reaches the smooth water penned back by a dam, which will be unavoidable at the great fall before mentioned, at Sherrill's mill. On the top of this fall,

a dam must be built across the river, of sufficient height for a lock of eight feet lift ; being built close to the bank at a precipitous projecting rocky hill, this dam and lock will flood Sherrill's mill, which must either be moved, or a greater expense and some risk incurred, by building a wing dam from the mill to the proposed site of the lock, and allowing a space between the lock and the bank of the river, for the tail water of the mill to pass. From the lower end of the lock, the navigation channel must be taken along the right bank the whole of the way. This side of the river is pretty free from obstruction, except at one place opposite the upper end of an island, where some rock must be excavated.

From the top of these falls to near Houston's Ferry, where they end, the whole distance is estimated at three miles, and the fall twenty-four feet.

From Houston's Ferry to the Island Ford, the distance is half a mile, with a fall of two feet six inches. The principal part of this fall is at a ledge of rock, three hundred yards above the islands. The best place for a channel will be near the right bank. Opposite the upper end of these islands there is a fish-trap fall, with some other small falls: in all, three feet in a quarter of a mile. The left bank will afford the best navigation channel. A quarter of a mile lower is the bottom of the islands; at which there is a fish-trap fall of two feet. One furlong below the islands is another fish-trap fall of one foot six inches. A quarter of a mile further is Abraham Shook's fish-trap, with a fall of one foot six inches. One mile and a half, to Ephraim Perkins's fish-trap, there are several small falls, making, in the whole, one foot. In these falls there is no difficulty of navigation. The left bank is the preferable channel.

For two miles below Ephraim Perkins's fish-trap, there is no obstruction of any consequence, with the water nearly still. At the end of this distance, there is a small fall of three inches. The left side is the deepest water. Two

furlongs lower are Lewis' fish-traps, with a fall of one foot six inches. The fish-traps must be removed, and a wing-dam made of the materials near the left bank. For a mile farther the water is smooth. At the end of this distance there is a shoal, which extends for one furlong, with a fall of only six inches. Towards the left bank is the deepest water.

The river is without any perceptible fall, for three miles and a half, to the

BUFFALO SHOALS.

These shoals begin at the upper end of Houston's island. My first impression was, that the left channel would be the best for navigation; but after more minutely examining both, I abandoned that idea. It appears to me, the best mode of improving the upper part of these falls will be to follow the right bank of the main or right channel, and build a wing-dam from the lower end of Houston's Island, to the upper end of Stevenson's Island; and from thence proceed by the channel to the right of Stevenson's island. Although a sufficiency of water will be obtained by this means for navigation, yet the current will be so rapid, that it will be advisable to build a dam from the lower end of Stevenson's island to about one hundred yards below the mouth of the channel, and there construct a lock close on the right bank. The present fall is estimated at six feet; but, in order to pen water upon the upper ledge of rock, one foot more may be given to the lock. Should it be found, after the construction of these works, that too much water goes down by the left of Houston's island, a wing dam can be built, at a trifling expense, upon a small fall at the head of that channel. The distance from Stevenson's landing, to the proposed site of the lock, is half a mile. From the tail of the lock, for a quarter of a mile, the navigation channel must follow the right bank. In this distance there is a ledge of rock, with a fall of two feet, which will require some blasting.

For a mile there is good navigable water, without any obstacle. One furlong, to the upper end of Crawford's island, there is a current but no obstruction. In the channel by the left of this island, there is a ledge of rock; and in the channel by the right, a gravel shoal. A very small expense will induce the whole of the water in the river to pass by the right side of the island, by building a wing dam on the ledge of rocks above mentioned. The fall at the upper end of the island is nine inches. A quarter of a mile from the top of this island there is a ledge of rock with a fall of three feet six inches. Opposite the fall there are two small islands; a wing-dam must be built at the top of the first island, and a dam put in between the lower end of the upper and the upper end of the lower island. By these means the small channel will make a good navigation, with the exception of a small ledge of rocks towards the lower end. This must be excavated. Immediately after the junction of this channel with the main river, there is a fall of one foot six inches. The left bank will be easiest improved.

The channel on the left of Crawford's Island was not explored, but the greatest part of it could be seen from the two extremities, which seemed to be generally smooth water; at the lower end, however, the obstructions are greater in the left than the right channel. For three furlongs below these falls, there is deep smooth water. At the first small island below this distance, the navigation must be taken by the left bank of the left channel, crossing from thence to the right at the upper end of another small island near the right bank, the fall at the lower end of which is two feet; the navigation channel along Litten's island, must be taken by the left bank of the main river. At the lower end of this island there is a gravel shoal with a fall of two feet: this must be cleared out and a wing dam made.

From the lower end of Litten's island, for three-quarters of a mile, there is a fall of five feet: little expense will be required to make a channel along the right bank of the

right channel. For a quarter of a mile the water is deep and smooth. At the end of this distance, there is a shoal one hundred and fifty yards in length, with a fall of two feet. By the left bank is the best channel. A wing dam will be required to throw the water in that direction. For three-quarters of a mile the water is smooth and navigable. Between the Flat island and Neill's island, immediately above the lower end of Mountain island, there is a shoal, with a fall of one foot six inches. The best way to improve this shoal, will be to extend a wing dam from the main river, parallel to the lower end of the first island, from thence towards the right bank of the channel on the right of Neill's island, keeping this bank to the lower end of the island. Along the course of this island, there are three rocky shoals, which will require some blasting. The fall from the top to the bottom is three feet in the distance of half a mile. By taking the navigation in the above direction, the shoal at the junction of the two main channels at the lower end of Mountain island will be avoided.

From Neill's island to Buzzard's island, at Sherill's Ford, there is good navigable water for three furlongs.

SHERILL'S FORD SHOALS.

From the upper to the lower end of the islands at Sherrill's Ford, the channel by the right bank only was explored. As there is no impediment of serious moment in this channel, I did not conceive it necessary to spend time in examining the other.

A wing-dam will be required at the head of Buzzard's Island, and a side dam between it and Long Island. The length from two extremities of these islands is one mile, with a fall of four feet. In this distance nothing is required but the removal of a few sand shoals and logs. One furlong lower there is a shoal with a fall of one foot. There is plenty of water at this shoal in the middle of the channel. Half a mile farther there is a shoal of one hundred yards in length,

with a fall of one foot. A few rocks must be removed out of the middle of the channel. Three furlongs below the above, there is a small fall of six inches. If a rock or two is removed a good channel may be made anywhere. A quarter of a mile lower there is a rocky shoal with a fall of one foot six inches. The best channel will be by the left bank. One furlong farther is Byer's fish-trap with a fall of one foot. About one-third of the river from the left bank is the most proper situation for a channel. In the next mile there are a few ripples not worth notice, as there are good channels in them all. The fall of this mile is two feet.

Three quarters of a mile lower is Connor's Island, At the head of the island there is a rocky shoal with a fall of one foot. The navigation must be taken near the right bank of the left channel. About the middle of the island there is another rocky shoal, but a good channel will be found by the left bank. This island is half a mile in length. Five furlongs below Conner's Island is Mayhew's fish-trap, with a fall of one foot. Nothing is required but to remove the trap and part of the dam to obtain a good channel on the right. One mile and one furlong lower is Jackson's fish-trap, with a fall of two feet. The best channel will be found by the left bank. This shoal continues for one furlong. Should there be a scarcity of water in dry seasons abundance can be got by constructing a wing-dam or two.

For two miles and a quarter the water is deep and without any perceptible current. At the end of this distance is Mountain Creek Shoal, with a fall of nine inches. There is no obstacle at this shoal. Three-quarters of a mile lower there is a small island (Poctan's.) The small or right channel is without obstruction. Should the supply of water be found at any time insufficient a wing-dam may extend into the main channel. The fall at this place is nine inches. Five furlongs below this island is Black's fish-trap, with a fall of one foot six inches. A channel must be cleared out by the right bank. For one and three quarters from Black's fish-trap the water is deep and smooth. From thence begins,

BEATTIE'S FORD SHOAL.

From the top of the falls to the upper end of the island, the distance is a quarter of a mile and the fall one foot six inches. These falls must be improved by a wing-dam from the river towards the right bank. Immediately at the ford there is a gravel shoal, which must be improved by excavation and wing-dams. One hundred yards below the above shoal there is a rocky shoal. From thence, towards the lower end of the islands, there is a succession of sand shoals terminating with another rocky ledge. The whole of these must be improved by contracting the water to the right bank. The aggregate of the fall is six feet, and the distance one mile. In the lowest fall there are two feet of the above mentioned six feet. In the channel by the left side of the islands, there is a mill built with a dam across the channel. For this reason I did not explore that part of the river. Mills and navigation should never come in contact where it can possibly be avoided. The clashing interests of their owners are a continual source of litigation, unless the miller is entirely under the control of the Navigation Company with respect to the supply of water for the mill.

From the lower end of Beattie's Island to the upper end of Cathey's Island, the distance is three furlongs of good navigable water. At the top of Cathey's Island is a small fall of nine inches. There is, however, a good channel in the middle. This island is three quarters of a mile in length, without any other obstruction than the one above noticed. It was the channel by the left of the island which was examined. From Cathey's Island to John Hagner's fish-trap, there is one and a half miles of river perfectly smooth and deep. At this fish-trap there is a fall of one foot. The left bank is the best for improvement. For one mile farther the river affords good navigable water to

COWAN'S FORD SHOALS.

From the top of these shoals to Burton's mill-dam, the distance is three-quarters of a mile, with a fall of five feet.

The right bank is the most favorable for improvement. There will be several wing and side dams and some rock blasting required in this distance. From the top of Burton's mill-dam the navigation channel must diverge from the right bank towards the middle of the river, passing where the first fish-trap is situated. From thence a channel must be cleared, and side-dams built, returning again to the right bank, about one hundred yards below the small island at Burton's Mill near the ford. The fall from the top of the dam to the ford is four feet, and the distance a quarter of a mile. This fall is not sufficiently great to induce me to recommend the erection of a lock at the mill. From Cowan's Ford to the lower end of Henry Connor's Island, the fall is three feet and the distance a quarter of a mile. The navigation at this bank must be taken by the right bank of the left channel. A wing-dam must be built towards the lower end of the island, and from thence to the right bank of the main channel. At the lower end of the island a gravel shoal is formed which must be removed. The additional quantity of water sent by the wing-dam will clear it in future. From Connor's Island, one furlong to Nants' three islands, the water is navigable. The navigation at these islands must be taken by the left bank of the left channel. The fall in three furlongs is two feet six inches. One furlong lower there is a small shoal with a fall of nine inches. The left bank must be kept here also. Half a mile farther is Beall's fish-trap with a fall of one foot six inches. The right bank is the best for navigation.

One mile below Beall's fish-trap is a small gravel shoal. There is abundance of water on the right bank. One mile lower is Toole's Ford with a fall of one foot. The right bank is the best channel. One furlong farther there is a sand shoal and fish-trap with a fall of one foot. The right bank is the best channel here also. For three miles and a quarter to Abernathy's Island, the river affords good navigable water. At this island there is a fall of one foot. By the left bank of the left channel is the best for improvement.

Half a mile below Abernathy's Island there is a rocky shoal with a fall of one foot. The middle of the river is the best channel. One mile and a furlong farther is a rocky shoal above Hislop's ford, with a fall of one foot. The middle of the river is the best channel here also. At Hislop's ford one hundred yards lower, there is a shoal with a fall of one foot. The navigation channel must be taken by the right bank. One mile farther is Henderson's fish-trap with a fall of one foot six inches. The left bank is the best situation for a channel. At the end of the next quarter of a mile there is a rocky shoal, and a small island below Davidson's Mill Creek. This shoal continues nearly a furlong; but it affords plenty of water in the mid channel of the main river. For two miles and a quarter there is fine navigable water, without any obstacle to

BETTY ABERNATHY'S FALLS.

The first of these falls is two feet six inches. At this place the course of the river is interrupted by a projected ledge of rock from the left bank, and immediately below, another from the right bank. The navigation channel must be cleared out of the natural course of the river. Some rock blasting and the removing of loose stones will be required here. Immediately below the first fall there is a deep pool of still water. The second fall is two feet six inches. The most proper situation for improvement is about a quarter of the width of the river from the right bank, where there must likewise be some rock blasting. From thence, along the right bank, is the best channel. The length of this fall is one furlong.

One mile lower is Rozzel's fish-trap. The fall is three feet, and length one furlong. The right bank is the fittest for a channel. There must be a wing-dam at the top, and side-dams for the remainder. Some small pieces of rock cutting will also be necessary. A quarter of a mile lower is Rozzel's Ferry. Immediately below which commences the

MOUNTAIN ISLAND SHOALS.

The first of these falls is over a ledge of rocks, of one foot six inches. The improvement must take place by the right bank, and continue thereby to the head of the first island. The navigation must then be taken by the right or smallest channel of the two first islands, to the entrance of Hendrick's mill-race. Wing dams will be required at the upper end of each of these islands, and a side dam from the top of the falls to the top of the first island. From the beginning of these shoals to the mill-race, the distance is one mile, and the fall five feet. The navigation is then to pass along the mill stream to Hendrick's mill, in which some obstructions of loose and solid rock must be removed. The mill dam is in such a miserable state, that it will be necessary to rebuild it entirely. It ought to be raised sufficiently high to pen the water back to the mouth of the mill-race. At the sawmill a short canal must be cut, and a lock of eight feet lift set in a little below the flourmill, on the right side of the stream, to lock into the tail-race, which it follows for a quarter of a mile. At the end of this distance, a dam has been built across to pen the water back to the mill. From this dam a canal has been partially cut. Some of it has been carried through deep cutting, without any slope to the banks. The effects of this mode of canal cutting are too glaring to require any comment. After passing through the deep cutting, the canal is made in level cutting for a short distance, and then drops down about four feet. The levels at this place have not been accurately taken: but I suppose the fall, from the top of the new dam to the surface of the water in the river, will be fourteen or fifteen feet. The best mode of finishing this canal will be, to build a lock of eight feet lift, immediately in the bank of the river; and from thence dig the canal on that level to the place where it was intended to fix the lock of four feet lift, and there put in a lock for the remainder of the rise, whatever it happens to be. This canal was in-

tended to be fourteen feet at the bottom, sixteen feet at surface water, and two feet deep. Instead of these dimensions, I would recommend it to be twelve feet at the bottom, twenty-one feet at surface water, and three feet deep, with a slope in the deep cutting under the surface water of one and a half to one; and for the bank above water, a slope of one to one. The distance from the top of the shoals to the lower end of the canal is estimated at three miles, and the canal twenty-eight feet.

About one hundred yards below the lower end of the canal, there is a small gravel shoal, with a fall of six inches. A wing dam must be built to divert the water towards the right bank. A quarter of a mile below, there is another small shoal, with a fall of nine inches. This must be improved in a similar manner to the last. For four miles, to the mouth of Long creek, the water is deep and smooth, without any obstruction. At this place commence

THE TUCKASEGE SHOALS.

From the mouth of Long creek to the top of the islands the fall is three feet, and the distance one furlong. A channel must be cleared out, about twenty or thirty yards from the left bank. The left channel of the islands is the best. Wing dams must be made at the top of the islands, and a channel cleared out near the right bank. The fall in three furlongs, is five feet. For another three furlongs, to the bottom of the island, the water is deep and smooth. One mile lower is Hardgoe's fish-trap, with a fall of nine inches. The right bank is the best for improvement. A quarter of a mile farther is Cunningham's fish-trap with a fall of one foot six inches. From Hardgoe's, the river must be crossed from the right to the left bank, which is the best to avoid Cunningham's fall. One furlong below the fish-trap is Cunningham's island. The small channel by the right bank is the best for navigation. The fall at this place, is

nine inches, and the distance one furlong. For one mile and a furlong there is good deep water: at the end of which there is a small fall of six inches. A few stones must be removed to make a clear channel. From this shoal for one and a half miles, there is no interruption; at the end of this distance, there is a fall of two feet in one furlong. Near the right bank is the best for improvement. Three-quarters of a mile lower there is a small fall of nine inches, but no obstructions.

For three miles the water is smooth and deep to Röss's island. On the left side of this island there is a mill dam, and on the right a rocky shoal, with a fall of five feet. This part of the river may be improved either by a lock at the mill, or by making a channel through the rocky shoal on the right side of the island. The fall of five feet on this side of the river is divided into two falls. The first fall must be cleared out where the greatest body of water runs, near the island. The second fall may be avoided by taking the channel between a very small island and the principal one. This channel must be cleared of stones, and a wing dam built. A quarter of a mile lower there is a small fall of six inches. The left side of the channel is the best. One furlong, to the lower end of the island, the water is smooth and deep. A quarter of a mile below the island, are Neill's fish-trap falls, of one foot six inches. Along the right bank there is a sand shoal. If a channel is cut through this shoal, and a wing dam built, it will make the best navigation. A side-dam must be made parallel to the bank, from Neill's fish-trap to the mouth of the south fork, the boundary line of the State. The distance is one mile and a half, and the fall six feet. There is no particular obstruction in this part of the river. By the right bank is generally the best water. Along the bank are some overbanking trees which must be cleared away.

The whole of the above levels and distances were taken by the eye; it is not therefore pretended that they are per-

fectly accurate. I, however, deem them sufficiently so for every purpose where canalling or lockage is not proposed. At those situations, the levels must be carefully taken with an instrument.

Where the channels for the navigation are cut out of the solid rock they must be made fifteen feet wide ; and deep enough to afford two feet water at all seasons of the year. Where the channels are to be confined to the bank by side dams, the width must not be less than twenty-five feet. These channels must be made as nearly straight as the nature of the circumstances will admit. Where they cannot be made exactly straight, the curvature must be very easy, always avoiding angles and quick bendings. The wing and side-dams to be built of stone and timber. Single rows of logs must be laid in the intended direction of the dams, and to be well supported on each side, and covered over with the largest stones which can be procured, and the interstices pinned or filled with small ones. In most cases there will be no necessity for these dams exceeding two feet six inches in height.

ESTIMATES.

*Estimate for the improvement of the Catawba River
from Muddy Creek to the South Carolina line.*

Clearing out of the channels in the several shoals from McDowal's Ford to the top of the Devil's Shoals, constructing and altering wing and side dam,	\$250 00
Constructing wing and side dams at the first and second fall of the Devil's Shoals, raising the upper lock one foot, putting paddles in the gates, raising and finishing the lower lock, and hanging gates with paddles therein,	65 00
Constructing wing and side dams, making channels in the gravel shoals, removing loose and solid rock, &c., at the Horse Ford Shoals,	150 00
Constructing wing and side dams, blasting rock, &c. at the Oxford Shoals,	53 00
Constructing wing and side dams, clearing out shoals, improving the channel at the Three Cornered Island, and other works from the Oxford to the Lookout Shoals,	45 00
Constructing wing and side dams, clearing a channel, building a dam across the river, building a timber lock, and otherwise improving the river from the top of the Lookout Shoals to Houston's Ferry, inclusive,	55 00
Constructing wing and side dams, clearing a channel of rock, and improving a fish-trap fall at Island Ford,	250 00

Constucting wing and side dams, clearing channels in the fish-trap falls, &c. from the Island Ford to Buffaloe Shoals,	95 00
Constructing wing and side dams, building a dam and lock at Stevenson's Island, and removing obstructions in the Buffalo Shoals,	3,230 00
Constructing wing and side dams, clearing out gravel shoals and other obstructions from the top of Sherrill's Ford to Beattie's Ford,	370 00
Constructing wing and side dams, clearing out sand shoals, blasting rock, and removing other obstructions at Beattie's Ford,	570 00
Constructing wing and side dams, clearing out sand-shoals and fish traps, blasting rock, &c. from Beattie's Island to the Mountain Island Shoals,	1,090 00
Constructing wing and side dams, building a lock and dam at Hendrick's Mill, finishing the canal, and building two locks therein,	4,338 00
Constructing wing and side dams, clearing out channels from the Mountain Island to the South Carolina line, including the shoals at the Tuckasege Ford and Ross's Island,	540 00
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	\$19,783 00
Ten per cent. additional for superintendance and other incidental expenses,	1,978 00
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	\$21,761 00

HAMILTON FULTON.

(Introduced by Mr. H. W. COLLINS.—Referred to the Committee on the Judiciary, and ordered to be printed.)

A BILL

FOR THE MORE SPEEDY

ADMINISTRATION OF JUSTICE.

A BILL

For the more speedy Administration of Justice.

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by the author-*
3 *ity of the same, That, whenever any issue or issues*
4 *shall be made up in any cause, and be pending in any*
5 *court of pleas and quarter sessions in this State, any*
6 *defendant or defendants therein, one or more of them,*
7 *his, her, or their agent or attorney, may file an affidavit*
8 *therein, setting forth that he, she, or they believe or be-*
9 *lieves, that there are matters of fact or of law involved*

Constucting wing and side dams, clearing channels in the fish-trap falls, &c. from the Island Ford to Buffalo Shoals,	95 00
Constructing wing and side dams, building a dam and lock at Stevenson's Island, and removing obstructions in the Buffalo Shoals,	3,230 00
Constructing wing and side dams, clearing out gravel shoals and other obstructions from the top of Sherrill's Ford to Beattie's Ford,	370 00
Constructing wing and side dams, clearing out sand shoals, blasting rock, and removing other obstructions at Beattie's Ford,	570 00
Constructing wing and side dams, clearing out sand-shoals and fish traps, blasting rock, &c. from Beattie's Island to the Mountain Island Shoals,	1,090 00
Constructing wing and side dams, building a lock and dam at Hendrick's Mill, finishing the canal, and building two locks therein,	4,338 00
Constructing wing and side dams, clearing out channels from the Mountain Island to the South Carolina line, including the shoals at the Tuckasege Ford and Ross's Island,	540 00
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5 *court of pleas and quarter sessions in this State, any*
6 *defendant or defendants therein, one or more of them,*
7 *his, her, or their agent or attorney, may file an affidavit*
8 *therein, setting forth that he, she, or they believe or be-*
9 *lieves, that there are matters of fact or of law involved*

10 therein, rendering it necessary to a fair, impartial, just
 11 and speedy trial, that the same should be removed to
 12 the superior court of the same county for trial; and,
 13 thereupon, the said court of pleas and quarter sessions
 14 shall order the record to be transmitted to the superior
 15 court of said county for trial: and the clerk of said
 16 court of pleas and quarter sessions shall make out a full
 17 and fair transcript of the record, and shall certify the
 18 same to the next superior court of said county; when
 19 the cause shall stand for trial at the first term of said
 20 court; subject, however, to continuances for like caus-
 21 es, and in the same manner, as other suits; and the
 22 costs of the cause, so removed to the superior court,
 23 to abide the event of the suit, as in other cases.

II. *Be it further enacted, by the authority aforesaid,*
2 and it is hereby enacted by the authority of the same,
 3 That any court of pleas and quarter sessions in this
 4 State, in which any suit or issue made may be depending,
 5 may, at any term after plea pleaded, on affidavit, as in
 6 the first section of this act mentioned, order such suit
 7 transmitted to the superior court of such county for
 8 trial, on such terms as may be deemed just and equita-
 9 ble; and, thereupon, the clerk of such court of pleas
 10 and quarter sessions shall certify the record thereof to
 11 the next superior court of said county; and it shall stand
 12 for trial at the first term of said superior court, but sub-
 13 ject to continuances for like causes, and in the same
 14 manner as other suits; and the costs of said suit
 15 to abide the event of the same, unless otherwise directed
 16 in the order of removal to the superior court.

III. *Be it further enacted, by and with the authority*
2 aforesaid, and it is hereby enacted by authority of the
 3 *same,* That when any petition may be pending, in any

4 in and Court of Pleas and Quarter Sessions, in this
 5 State, any defendants therein, or any one or more of
 6 them, his, her or their agent or attorney, may, at the
 7 term of the court, when the same is set for hearing,
 8 file an affidavit therein, setting forth, in substance, that
 9 he, she or they believe or believes, that it is necessary
 10 to the due, fair and speedy administration of justice,
 11 that the same be removed to the Superior Court for trial;
 12 and thereupon, said Court of Pleas and Quarter Ses-
 13 sions shall order the same to be transmitted to the Su-
 14 perior Court of said county, for trial: and the clerk of
 15 said Court of Pleas and Quarter Sessions shall trans-
 16 mit a certified record thereof, to the next Superior
 17 Court, where it shall stand for trial, at the first term of
 18 said Court, subject, however, to continuance, for like
 19 causes, and in the same manner as other suits.

IV. Be it further enacted by the authority aforesaid, and
 2 *it is hereby enacted by the authority of the same, That*
 3 when any petition shall be depending in any Court of
 4 Pleas and Quarter Sessions in this State, the defendant
 5 or defendants therein, or any one or more of them, his,
 6 her or their agent or attorney, may, at any subsequent
 7 term, after the term when the same has been set for hear-
 8 ing, file his, her or their affidavit therein, as mentioned in
 9 the third section of this act; and thereupon, said Court
 10 of Pleas and Quarter Sessions, may, in its discretion,
 11 order the same to be transmitted to the Superior Court
 12 of said county, for trial, on such terms as may be deem-
 13 ed just and proper; and the clerk of said Court of Pleas
 14 and Quarter Sessions shall transmit a certified record
 15 thereof to the next Superior Court, there to stand for
 16 trial, at the first term thereof, subject, however, to be
 17 continued, for like causes and in the same manner that
 18 other causes are continued, and the costs thereof, to
 19 abide the event of the same, unless otherwise directed

20 in the order of removal, or in the discretion of the
21 Court, in the final hearing.

V. *Be it further enacted by the authority aforesaid, and*
2 *it is hereby enacted by the authority of the same, That*
3 *this act shall be in force from and after the ratification*
4 *of the same.*

HOUSE OF COMMONS, Oct. 15, 1852.

[Introduced by Mr. WEBB.—Read first time and passed,
and ordered to lie on the table.]

HOUSE OF COMMONS, Dec. 13, 1852.

[Taken from the table and placed on the file of bills.
Read second time and ordered to be printed.]



A BILL

Calling a Convention to amend the Constitution of
North Carolina.

1. *Be it enacted by the General Assembly of the State of*
2 *North Carolina, and it is hereby enacted by the autho-*
3 *rity of the same, That the Courts of Pleas and Quar-*
4 *ter Sessions of each and every county in this State, at*
5 *the first term that shall be held after the first day of*
6 *March, (A. D.) 1853, shall appoint two inspectors to su-*
7 *perintend the polls, to be opened at each and every elec-*
8 *tion precinct in said counties, for ascertaining by ballot,*
9 *the will of the freemen of North Carolina relative to the*
10 *meeting of a Cenvention, to amend and alter the Con-*
11 *stitution of this State, the delegates to which to be elec-*
12 *ted on the same basis on which the Members to the*
13 *House of Commons are now elected. And if any court*

14 or courts shall fail to make such appointments, or if any
 15 inspectors so appointed shall fail to act, it shall be the
 16 duty of the Sheriff or the person acting as his deputy
 17 on such occasion, some Justice of the Peace or free-
 18 holder present, to appoint an inspector or inspectors in
 19 the place of him or them who fail to act, which inspec-
 20 tors, when duly sworn by some Justice of the Peace or
 21 freeholder, to perform the duties of the place with fidel-
 22 ity, shall have the same authority as if appointed by the
 23 Court.

II. *Be it further enacted*, That it shall be the duty of
 2 the sheriffs of the respective counties in this State, to
 3 open the polls at the several election precincts in said
 4 counties, on the first Thursday in August, 1853, when
 5 and where all persons qualified to vote for Members of
 6 the House of Commons may vote for or against State
 6 Convention, those who wish a Convention voting with
 7 a written or printed ticket, "Convention," and those who
 8 do not want a Convention, voting in the same way, "No
 9 Convention," or "Against Convention."

III. *Be it further enacted*, That the judges of the sev-
 2 eral election precincts shall return to the Clerk of their
 3 respective counties under seal, a full and entire state-
 4 ment of the number of votes cast, with the names of the
 5 persons voting, carefully distinguishing the number voting
 6 Convention, from those voting no Convention, and under
 7 the same restrictions as they are now required by law to
 8 return the vote for governor; said returns to be opened and
 9 compared at the respective court houses in each county,
 10 on the day after said election, between the hours of ten
 11 and four o'clock, by the Clerk, in presence of the Sheriff,
 12 and a full statement thereof delivered to the Sheriff by
 13 said Clerk under seal of office.

IV. *Be it further enacted*, That within ten days from
 2 the day of said election, it shall be the duty of the sher-
 3 iff or coroner, as the case may be, to whom such certifi-
 4 cate has been issued by the clerk, to make returns thereof
 5 to the Secretary of State, under the same rules and reg-
 6 ulations that they are now required by law to make re-
 7 turns in the governor's election.

V. *Be it further enacted*, That it shall be the duty of
 2 the Secretary of State, in the presence of the Governor,
 3 on or before the first day of September next, to open
 4 and compare all such returns, and deliver to the Gov-
 5 ernor, under seal of the State, a certificate of the entire
 6 result of said vote ; and if it shall be made appear from
 7 such certificate that a majority of the whole number of
 8 votes cast shall be in favor of Convention, then, and in
 9 that case, it shall be the duty of the Governor to issue
 10 his Proclamation to the several sheriffs or coroners
 11 throughout the State, to cause elections to be held in
 12 their respective counties for delegates to said Conven-
 13 tion, said election to be held at such time in the month
 14 of November next as His Excellency may designate.

VI. *Be it further enacted*, That said Convention, thus
 2 constituted, shall convene in the City of Raleigh, on
 3 the second Monday in January 1854, and have full
 4 power and authority to organize their own body, set
 5 upon their own adjournments, and make such reforms
 6 as they in their wisdom may deem expedient to promote
 7 the interest of North Carolina.

